

Internal Revenue bulletin

Bulletin No. 2001-37
September 10, 2001

HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

INCOME TAX

Rev. Rul. 2001-42, page 223.

Fringe benefits aircraft valuation formula. The Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charges in effect for the second half of 2001 are set forth for purposes of determining the value of noncommercial flights on employer-provided aircraft under section 1.61-21(g) of the regulations.

Rev. Rul. 2001-44, page 223.

LIFO; price indexes; department stores. The July 2001 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, July 31, 2001.

REG-106431-01, page 272.

Proposed regulations under section 1361 of the Code provide guidance regarding a qualified subchapter S trust election for testamentary trusts and the period for which former subpart E trusts and testamentary trusts may be permitted shareholders of an S corporation.

Notice 2001-53, page 225.

2001 marginal production rates. This notice announces the applicable percentage under section 613A of the Code to be used in determining percentage depletion for marginal properties for the 2001 calendar year.

Notice 2001-54, page 225.

2001 enhanced oil recovery credit. The enhanced oil recovery credit for taxable years beginning in the 2001 calendar year is determined without regard to the phase-out for crude oil price increases provided in section 43(b) of the Code.

ADMINISTRATIVE

Rev. Proc. 2001-45, page 227.

Substitute printed, computer-prepared, and computer-generated tax forms and schedules. Requirements are set forth for privately designed and printed federal tax forms and conditions under which the Service will accept computer-prepared, and computer-generated tax forms and schedules. Rev. Proc. 2000-19 superseded.

Rev. Proc. 2001-46, page 263.

Business expenses, capital expenditures, railroad track maintenance costs. This procedure provides a safe harbor method of accounting for track structure expenditures paid or incurred by certain railroads, and procedures for a qualifying taxpayer to obtain automatic consent from the Commissioner to change to the track maintenance allowance method. In addition, this procedure provides an optional procedure for certain qualifying taxpayers to settle the issue of track structure expenditures for open taxable years using the track maintenance allowance method. Rev. Proc. 99-49 modified and amplified.

Finding Lists begin on page ii.



Department of the Treasury
Internal Revenue Service

The IRS Mission

Provide America's taxpayers top quality service by helping them understand and meet their tax responsibilities

and by applying the tax law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly and may be obtained from the Superintendent of Documents on a subscription basis. Bulletin contents are consolidated semiannually into Cumulative Bulletins, which are sold on a single-copy basis.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and proce-

dures must be considered, and Service personnel and others concerned are cautioned against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The first Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the first Bulletin of the succeeding semiannual period, respectively.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 61.—Gross Income Defined

26 CFR 1.61–21: *Taxation of fringe benefits.*

Fringe benefits aircraft valuation formula. For purposes of section 1.61–21(g) of the Income Tax Regulations, relating to the rule for valuing noncommercial flights on employer-provided aircraft, the Standard Industry Fare Level (SIFL) cents-per-mile rates and terminal charges in effect for the second half of 2001 are set forth.

Rev. Rul. 2001–42

For purposes of the taxation of fringe benefits under section 61 of the Internal Revenue Code, section 1.61–21(g) of the Income Tax Regulations provides a rule for valuing noncommercial flights on employer-provided aircraft. Section 1.61–21(g)(5) provides an aircraft valuation formula to determine the value of such flights. The value of a flight is determined under the base aircraft valuation formula (also known as the Standard Industry Fare Level formula or SIFL) by

multiplying the SIFL cents-per-mile rates applicable for the period during which the flight was taken by the appropriate aircraft multiple provided in section 1.61–21(g)(7) and then adding the applicable terminal charge. The SIFL cents-per-mile rates in the formula and the terminal charge are calculated by the Department of Transportation and are reviewed semi-annually.

The following chart sets forth the terminal charges and SIFL mileage rates:

Period During Which the Flight Is Taken

7/1/01 - 12/31/01

Terminal Charge

\$36.88

SIFL Mileage Rates

Up to 500 miles
= \$.2017 per mile

501-1500 miles
= \$.1538 per mile

Over 1500 miles
= \$.1479 per mile

DRAFTING INFORMATION

The principle author of this revenue ruling is Kathleen Edmondson of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this revenue ruling, contact Ms. Edmondson at (202) 622-6040 (not a toll-free call).

Section 446.—General Rule for Methods of Accounting

26 CFR 1.446–1: *General rule for methods of accounting.*

A safe harbor method of accounting is provided for track structure expenditures paid or incurred by certain railroads, as well as procedures for automatic consent to change to this method. See Rev. Proc. 2001–46, page 263.

Section 472.—Last-in, First-out Inventories

26 CFR 1.472–1: *Last-in, first-out inventories.*

LIFO; price indexes; department stores. The July 2001 Bureau of Labor Statistics price indexes are accepted for use by department stores employing the retail inventory and last-in, first-out inventory methods for valuing inventories for tax years ended on, or with reference to, July 31, 2001.

Rev. Rul. 2001–44

The following Department Store Inventory Price Indexes for July 2001 were issued by the Bureau of Labor Statistics. The indexes are accepted by the Internal Revenue Service, under § 1.472–1(k) of the Income Tax Regulations and Rev. Proc. 86–46 (1986–2 C.B. 739) for appro-

appropriate application to inventories of department stores employing the retail inventory and last-in, first-out inventory methods for tax years ended on, or with reference to, July 31, 2001.

The Department Store Inventory Price Indexes are prepared on a national basis and include (a) 23 major groups of departments, (b) three special combinations of the major groups - soft goods, durable goods, and miscellaneous goods, and (c) a store total, which covers all departments, including some not listed separately, except for the following: candy, food, liquor, tobacco, and contract departments.

BUREAU OF LABOR STATISTICS, DEPARTMENT STORE
INVENTORY PRICE INDEXES BY DEPARTMENT GROUPS
(January 1941 = 100, unless otherwise noted)

Groups	July 2000	July 2001	Percent Change from July 2000 to July 2001 ¹
1. Piece Goods	519.6	495.0	-4.7
2. Domestic and Draperies	630.3	604.1	-4.2
3. Women's and Children's Shoes	613.6	652.3	6.3
4. Men's Shoes	896.4	865.9	-3.4
5. Infants' Wear	629.5	593.7	-5.7
6. Women's Underwear	561.4	567.1	1.0
7. Women's Hosiery	335.1	352.6	5.2
8. Women's and Girls' Accessories	528.2	542.1	2.6
9. Women's Outerwear and Girls' Wear	364.0	355.7	-2.3
10. Men's Clothing	602.8	577.6	-4.2
11. Men's Furnishings	608.8	588.4	-3.4
12. Boys' Clothing and Furnishings	478.6	476.0	-0.5
13. Jewelry	945.5	946.5	0.1
14. Notions	780.8	805.8	3.2
15. Toilet Articles and Drugs	965.7	972.5	0.7
16. Furniture and Bedding	689.2	637.7	-7.5
17. Floor Coverings	609.8	628.7	3.1
18. Housewares	783.5	771.5	-1.5
19. Major Appliances	232.9	225.6	-3.1
20. Radio and Television	59.1	53.9	-8.8
21. Recreation and Education ²	92.6	89.8	-3.0
22. Home Improvements ²	127.9	125.8	-1.6
23. Auto Accessories ²	106.5	109.4	2.7
Groups 1 - 15: Soft Goods	583.3	575.7	-1.3
Groups 16 - 20: Durable Goods	439.9	423.3	-3.8
Groups 21 - 23: Misc. Goods ²	100.0	98.5	-1.5
Store Total ³	529.2	519.5	-1.8

¹ Absence of a minus sign before the percentage change in this column signifies a price increase.

² Indexes on a January 1986=100 base.

³ The store total index covers all departments, including some not listed separately, except for the following: candy, food, liquor, tobacco, and contract departments.

DRAFTING INFORMATION

The principal author of this revenue ruling is Michael Burkom of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue ruling, contact Mr. Burkom at (202) 622-4930 (not a toll-free call).

Section 481.—Adjustments Required by Changes in Method of Accounting

26 CFR 1.481-1: Adjustments in general.

A safe harbor method of accounting is provided for track structure expenditures paid or incurred by certain railroads, as well as procedures for automatic consent to change to this method. See Rev. Proc. 2001-46, page 263.

Part III. Administrative, Procedural, and Miscellaneous

2001 Marginal Production Rates

Notice 2001-53

Section 613A(c)(6)(C) of the Internal Revenue Code defines the term “applicable percentage” for purposes of determining percentage depletion for oil and gas

produced from marginal properties. The applicable percentage is the percentage (not greater than 25 percent) equal to the sum of 15 percent, plus one percentage point for each whole dollar by which \$20 exceeds the reference price (determined under § 29(d)(2)(C)) for crude oil for the calendar year preceding the calendar year

in which the taxable year begins. The reference price determined under § 29(d)(2)(C) for the 2000 calendar year is \$26.73.

Table 1 contains the applicable percentages for marginal production for taxable years beginning in calendar years 1991 through 2001.

Notice 2001-53 Table 1

APPLICABLE PERCENTAGE FOR MARGINAL PRODUCTION

<i>Calendar Year</i>	<i>Applicable Percentage</i>
1991	15 percent
1992	18 percent
1993	19 percent
1994	20 percent
1995	21 percent
1996	20 percent
1997	16 percent
1998	17 percent
1999	24 percent
2000	19 percent
2001	15 percent

The principal author of this notice is Brenda M. Stewart of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further information regarding this notice, contact Ms. Stewart at (202) 622-3120 (not a toll-free call).

2001 Section 43 Inflation Adjustment

Notice 2001-54

Section 43(b)(3)(B) of the Internal Revenue Code requires the Secretary to publish an inflation adjustment factor. The en-

hanced oil recovery credit under § 43 for any taxable year is reduced if the “reference price,” determined under § 29(d)(2)(C), for the calendar year preceding the calendar year in which the taxable year begins is greater than \$28 multiplied by the inflation adjustment factor for that year.

The term “inflation adjustment factor” means, with respect to any calendar year, a fraction the numerator of which is the GNP implicit price deflator for the preceding calendar year and the denominator of which is the GNP implicit price deflator for 1990.

Because the reference price for the 2000 calendar year (\$26.73) does not ex-

ceed \$28 multiplied by the inflation adjustment factor for the 2001 calendar year, the enhanced oil recovery credit for qualified costs paid or incurred in 2001 is determined without regard to the phase-out for crude oil price increases.

Table 1 contains the GNP implicit price deflator used for the 2001 calendar year, as well as the previously published GNP implicit price deflators used for the 1991 through 2000 calendar years.

Notice 2001-54 TABLE 1

GNP IMPLICIT PRICE DEFLATORS

<i>Calendar Year</i>	<i>GNP Implicit Price Deflator</i>
1990	112.9 (used for 1991)
1991	117.0 (used for 1992)
1992	120.9 (used for 1993)
1993	124.1 (used for 1994)
1994	126.0 (used for 1995)
1995	107.5 (used for 1996)*
1996	109.7 (used for 1997)
1997	112.35 (used for 1998)**
1998	112.64 (used for 1999)
1999	104.59 (used for 2000)***
2000	106.89 (used for 2001)

* Beginning in 1995, the GNP implicit price deflator was rebased relative to 1992. The 1990 GNP implicit price deflator used to compute the 1996 § 43 inflation adjustment factor is 93.6.

** Beginning in 1997, two digits follow the decimal point in the GNP implicit price deflator. The 1990 GNP price deflator used to compute the 1998 § 43 inflation adjustment factor is 93.63.

*** Beginning in 1999, the GNP implicit price deflator was rebased relative to 1996. The 1990 GNP implicit price deflator used to compute the 2000 § 43 inflation adjustment factor is 86.53.

Table 2 contains the inflation adjustment factor and the phase-out amount for taxable years beginning in the 2001 calendar year as well as the previously published inflation adjustment factors and phase-out amounts for taxable years beginning in the 1991 through 2000 calendar years.

Notice 2001-54 TABLE 2

INFLATION ADJUSTMENT FACTORS AND
PHASE-OUT AMOUNTS

<i>Calendar Year</i>	<i>Inflation Adjustment Factor</i>	<i>Phase-out Amount</i>
1991	1.0000	0
1992	1.0363	0
1993	1.0708	0
1994	1.0992	0
1995	1.1160	0
1996	1.1485	0
1997	1.1720	0
1998	1.1999	0
1999	1.2030	0
2000	1.2087	0
2001	1.2353	0

DRAFTING INFORMATION

The principal author of this notice is Brenda M. Stewart of the Office of Associate Chief Counsel (Passthroughs and Special Industries). For further informa-

tion regarding this notice, contact Ms. Stewart at (202) 622-3120 (not a toll-free call).

NOTE: This revenue procedure will be reprinted as the next revision of IRS Publication 1167, *Substitute Printed, Computer-Prepared, and Computer-Generated Tax Forms and Schedules*.

Rev. Proc. 2001-45

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- Exhibit CG-B Schedule B (Computer Generated)
- Exhibit C Sample Checklist
- Exhibit D List of Forms Referred to in the Revenue Procedure

Chapter 1 Introduction to Substitute Forms

Section 1.1—Overview of Revenue Procedure 2001–45

1.1.1 Purpose	<p>The purpose of this revenue procedure is to provide procedural guidelines and general requirements for the development, printing, and approval of all substitute tax forms. Approval will be based on these guidelines. After review and approval, submitted forms will be accepted as substitutes for official IRS forms.</p>
1.1.2 Unique Forms	<p>Certain unique specialized forms require the use of other additional revenue procedures to supplement this publication. See Chapter 4.</p>
1.1.3 Scope	<p>The Internal Revenue Service accepts quality substitute tax forms that are consistent with the official forms and do not have an adverse impact on our processing. The IRS Substitute Forms Program administers the formal acceptance and processing of these forms nationwide. While this program deals primarily with paper documents, it also interfaces with other processing and filing media such as:</p> <ul style="list-style-type: none">• Magnetic tape,• Optical character recognition, and• Electronic filing. <p>Only those substitute forms that comply fully with the requirements set forth are acceptable. Exhibit D lists the form numbers mentioned in this document, their titles, and where their references are made. This revenue procedure is updated as required to reflect pertinent tax year form changes and to meet processing and/or legislative requirements.</p>
1.1.4 Forms Covered by This Revenue Procedure	<p>The following types of forms are covered by this revenue procedure:</p> <ul style="list-style-type: none">• IRS tax returns and their related forms and schedules.• Worksheets as they appear in instruction packages.• Applications for permission to file returns electronically and forms used as required documentation for electronically filed returns.• Powers of Attorney.• Over-the-counter estimated tax payment vouchers.• Forms and schedules relating to partnerships, exempt organizations, and employee plans.
1.1.5 Forms NOT Covered by This Revenue Procedure	<p>The following types of forms are not covered by this revenue procedure:</p> <ul style="list-style-type: none">• W-2, W-3 (see Publication 1141 for information on these forms).• 1096, 1098 series, 1099 series, 5498 series, and W-2G (see Publication 1179 for information on these forms).• Federal Tax Deposit (FTD) coupons, which may not be reproduced.• Forms 1040-ES(OCR) and 1041-ES(OCR), which may not be reproduced.• Requests for information or documentation initiated by the Service.• Forms used internally by the Service.• State tax forms.• Forms developed outside IRS (except for Form TD F 90–22.1, <i>Report of Foreign Bank and Financial Accounts</i>).

Section 1.2—IRS Contacts

1.2.1 Where To Send Substitute Forms

Send your substitute forms for approval to the following offices (DO NOT send forms with taxpayer data):

Form	Office and Address
4789, 8300, 8362, 8852, TD F 90–22.1, TD F 90–22.47	IRS Computing Center BSA Compliance Branch P.O. Box 32063 Detroit, MI 48232-0063
All others (except W-2, W-3, 1096, 1098, 1099, 5498, and W-2G)	Internal Revenue Service Attn: Substitute Forms Program W:CAR:MP:FP:S:CS 1111 Constitution Avenue, NW Room 5244 IR Washington, DC 20224

In addition, the Substitute Forms Program Unit can be contacted via e-mail at tfp@publish.no.irs.gov. Please enter “Substitute Forms” on the Subject Line. Use this e-mail address only to inquire about forms covered by this revenue procedure. DO NOT attach graphic files for approval with e-mail.

For questions about Forms W-2 and W-3, refer to IRS Publication 1141, *General Rules and Specifications for Private Printing of Substitute Forms W-2 and W-3*. For Forms 1096, 1098, 1099, 5498, and W-2G, refer to IRS Publication 1179, *Rules and Specifications for Private Printing of Substitute Forms 1096, 1098, 1099, 5498, and W-2G*.

Section 1.3—Nature of Changes

1.3.1 Changes to the Revenue Procedure

The following changes have been made to the Revenue Procedure for 2001:

- The pages have been renumbered for easier use.
- IRS Internet Web Site addresses have been updated.
- The OCR Forms address in Section 1.2.1 has been omitted. These form submissions may now be sent to the Substitute Forms Program Unit.
- The Substitute Forms Program office symbols have been changed to W:CAR:MP:FP:S:CS.
- The definition under Section 1.4.7 has been deleted.
- The list of related publications in Chapter 4 has been updated. Pub. 1192 has been deleted from the list because it is obsolete.
- Pricing information for the Federal Tax Forms CD-ROM has been revised.
- Section 7.1 has been deleted. Form 1040EZ is no longer being scanned.
- Information about Form 1040PC in Section 7.2 and elsewhere has been deleted. Effective tax year 2000, the Service is no longer accepting Form 1040PC.
- Section 7.3 has been deleted. The information concerning these OCR scannable forms is no longer valid.
- Because the information in Chapter 7 of the previous revision has been deleted, Chapters 8 and 9 are now Chapters 7 and 8.
- Form 1042–S specifications have been revised.
- Forms 5500 and 5500–EZ are now handled by the Pension and Welfare Benefits Administration (PWBA). Forms 5500 and 5500–EZ will no longer be accepted for IRS approval. Information can be found in Section 7.4. Other references to these forms have been deleted throughout this revenue procedure.
- Exhibit L–1 is renamed Exhibit D. The list has been reformatted and updated.
- Various editorial changes have been made.

Section 1.4—Definitions

1.4.1 Substitute Form	A tax form (or related schedule) that differs in any way from the official version and is intended to replace the entire form that is printed and distributed by the Service. This term also covers those approved substitute forms exhibited in this revenue procedure.
1.4.2 Printed/Preprinted Form	A form produced using conventional printing processes. Also, a printed form which has been reproduced by photocopying or a similar process.
1.4.3 Preprinted Pin-Fed Form	A printed form that has marginal perforations for use with automated and high-speed printing equipment.
1.4.4 Computer-Prepared Substitute Form	A preprinted form in which the taxpayer's tax entry information has been inserted by a computer, computer-printer, or other computer type equipment such as word-processing equipment.
1.4.5 Computer-Generated Substitute Tax Return or Form	<p>A tax return or form that is entirely designed and printed using a computer printer such as a laser printer, etc., on plain white paper. This return or form must conform to the physical layout of the corresponding IRS form, although the typeface may differ. The text should match the text on the officially printed form as closely as possible. Condensed text and abbreviations will be considered on a case-by-case basis.</p> <p>Exception: All jurats (perjury statements) must be reproduced verbatim.</p>
1.4.6 Manually-Prepared Form	A preprinted reproduced form in which the taxpayer's tax entry information is entered by an individual using a pen, pencil, typewriter, or other non-automated equipment.
1.4.7 Graphics	Parts of a printed tax form that are not tax amount entries or required information. Examples of graphics are line numbers, captions, shadings, special indicators, borders, rules, and strokes created by typesetting, photo-graphics, photo-composition, etc.
1.4.8 Acceptable Reproduced Form	A legible photocopy of an original form.
1.4.9 Supporting Statement (Supplemental Schedule)	<p>A document providing detailed information to support a line entry on an official or approved substitute form and filed with (attached to) a tax return.</p> <p>Note: <i>A supporting statement is not a tax form and does not take the place of an official form unless specifically permitted elsewhere in this procedure.</i></p>
1.4.10 Specific Form Terms	The following specific terms are used throughout this revenue procedure in reference to all substitute forms: format, sequence, line reference, item caption, and data entry field.
1.4.11 Format	The overall physical arrangement and general layout of a substitute form.
1.4.12 Sequence	Sequence is an integral part of the total format requirement. The substitute form should show the same numeric and logical placement order of data, as shown on the official form.
1.4.13 Line Reference	The line numbers, letters, or alphanumerics used to identify each captioned line on an official form. These line references are printed to the immediate left of each caption or data entry field.
1.4.14 Item Caption	The text on each line of a form, which identifies the data required.

1.4.15 Data Entry Field	Designated areas for the entry of data such as dollar amounts, quantities, responses, checkboxes, etc.
1.4.16 Advanced Draft	A draft version of a new or revised form may be posted to the IRS Internet site for information purposes. Substitute forms may be submitted based on these advanced drafts, but any company that receives forms approval based on these early drafts is responsible for monitoring and revising forms to mirror any revisions in the final forms provided by the Service.

Section 1.5—Agreement

1.5.1 Important Stipulation of This Revenue Procedure	<p>Any person or company who uses substitute forms and makes all or part of the changes specified in this revenue procedure agrees to the following stipulations:</p> <ul style="list-style-type: none"> • The Internal Revenue Service presumes the changes are made in accordance with these procedures and, as such, will be non-interruptive to the processing of the tax return. • Should any of the changes prove to be not exactly as described, and as a result become disruptive to the Internal Revenue Service during processing of the tax return, the person or company agrees to accept the termination of the IRS as to whether or not the form may continue to be used during the filing season. • The person or company agrees to work with the IRS in correcting noted deficiencies. Notification of deficiencies may be made by any combination of fax, letter, e-mail, or phone contact and may include the return of unacceptable forms for re-submission of acceptable forms.
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Chapter 2 General Guidelines for Submissions and Approvals

Section 2.1—General Specifications for Approval

2.1.1 Overview	If you produce any tax returns and forms using IRS guidelines on permitted changes, you can generate your own substitutes without further approval. If your changes are more extensive, you must get official approval before using substitute forms. These changes include the use of typefaces and sizes other than those found on the official form and the condensing of line item descriptions to save space.
2.1.2 Schedules	Schedules are considered to be an integral part of a complete tax return. A schedule may be included as part of a form or printed separately.
2.1.3 Example of Schedules That Must Be Submitted With the Return	Form 706, <i>United States Estate (and Generation-Skipping Transfer) Tax Return</i> , is an example of this situation. Its Schedules A through U have pages numbered as part of the basic return. For Form 706 to be approved, the entire form including Schedules A through U must be submitted.
2.1.4 Examples of Schedules That Can Be Submitted Separately	However, Schedules 1, 2, and 3 of Form 1040A are examples of schedules that can be separately computer-generated. Although printed by the IRS as a supplement to Form 1040A, none of these schedules are required to be filed with Form 1040A. These schedules may be separated from Form 1040A and submitted as computer-generated substitute forms.
2.1.5 Use and Distribution of Unapproved Forms	The Internal Revenue Service is continuing a program to identify and contact tax return preparers, forms developers, and software publishers who use or distribute unapproved forms that do not conform to this revenue procedure. The use of unapproved forms impedes processing of the returns.

Section 2.2—Highlights of Permitted Changes and Requirements

2.2.1 Methods of Reproducing Internal Revenue Service Forms	Official versions are supplied by the Internal Revenue Service, such as those in the taxpayer's tax package, those printed in revenue procedures, and over-the-counter forms available at IRS and other governmental public offices or buildings. Forms are also available on CD-ROM, and on-line via the Internet.
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There are methods of reproducing Internal Revenue Service printed tax forms suitable for use as substitute tax forms without prior approval.

- You can photocopy most tax forms and use them instead of the official ones. The entire substitute form, including entries, must be legible.
- You can reproduce any current tax form as cut sheets, snap sets, and marginally punched, pin-fed forms so long as you use an official IRS version as the master copy.
- You can reproduce a “signature form” as a valid substitute form. Many tax forms (including returns) have a taxpayer signature requirement as part of the form layout. **The jurat/perjury statement/signature line areas must be retained and worded exactly as on the official form.** The requirement for a signature by itself does not prohibit a tax form from being properly computer-generated.

Section 2.3—Vouchers

2.3.1 Overview

All payment vouchers (Forms 940–V, 940–EZ(V), 941–V, 943–V, 945–V, 1040–V, and 2290–V) must be reproduced. Substitute vouchers must be the same size as the officially printed vouchers. Vouchers that are prepared for printing on a laser printer may include a scan line.

2.3.2 Scan Line Specifications

NNNNNNNNN AA AAAA NN N NNNNNN NNN

Item: A B C D E F G

- A. Social Security Number/Employer Identification Number (SSN/EIN) has 9 numeric spaces.
- B. Check Digit has 2 alpha spaces.
- C. Name Control has 4 alphanumeric spaces.
- D. Master File Tax (MFT) Code has 2 numeric spaces (see below).
- E. Taxpayer Identification Number (TIN) Type has 1 numeric space (see below).
- F. Tax period has six numeric spaces in year/month format (YYYYMM).
- G. Transaction Code has 3 numeric spaces.

2.3.3 MFT Code

Code Number for Form:

- 1040 family – 30;
- 940/940–EZ – 10;
- 941 – 01;
- 943 – 11;
- 945 – 16; and
- 2290 – 60.

2.3.4 TIN Type

Type Number for:

- Form 1040 family – 0; and
- Forms 940, 940–EZ, 941, 943, 945, and 2290 – 2.

2.3.5 Voucher Size

The voucher size must be exactly 8.0" x 3.25" (Forms 1040–ES and 1041–ES must be 7.625" x 3.0"). The document scan line must be vertically positioned 0.25 inches from the bottom of the scan line to the bottom of the voucher. The last character on the right of the scan line must be placed 3.5 inches from the right leading edge of the document. The minimum required horizontal clear space between characters is .014 inches. The line to be scanned must have a clear band 0.25 inches in height from top to bottom of the scan line, and from border to border of the document. “Clear band” means no printing except for dropout ink.

2.3.6 Print and Paper Weight

Vouchers must be imaged in black ink using OCR A, OCR B, or Courier 10. These fonts may not be mixed in the scan line. The horizontal character pitch is 10 CPI. The paper must be 20 to 24 pound OCR bond paper weight.

Section 2.4—Restrictions on Changes

2.4.1 Things You CANNOT Do to IRS Forms Suitable for Substitute Tax Forms

You cannot, without prior IRS approval, change any IRS tax form or use your own (non-approved) versions including graphics, unless specifically permitted by this revenue procedure.

You cannot adjust any of the graphics on Forms 1040, 1040A, and 1040EZ (except in those areas specified in Chapter 5 of this revenue procedure) without prior approval from the IRS Substitute Forms Program Unit.

You cannot use your own preprinted label on tax returns filed with the IRS unless you fully comply with the criteria specified in the section in this revenue procedure on use of pre-addressed IRS labels.

Section 2.5—Guidelines for Obtaining IRS Approval

2.5.1 Basic Requirements

Preparers who submit substitute privately-designed, privately-printed, computer-generated, or computer-prepared tax forms must develop these substitutes using the guidelines established in this chapter. These forms, unless excepted by the revenue procedure, must be approved by the IRS before being filed.

2.5.2 Conditional Approval Based on Advance Drafts

The IRS cannot grant final approval of your substitute form until the official form has been published. However, the IRS has established a location on the Internet for the posting of advance drafts of forms. This site can be reached through the Tax Professional's Corner at:

http://www.irs.gov/prod/bus_info/tax_pro.

We encourage submission of proposed substitutes of these advance draft forms, and will grant conditional approval based solely on these early drafts. These advance drafts are subject to significant change before forms are finalized. If these advance drafts are used as the basis for your substitute forms, you will be responsible for subsequently updating your final forms to agree with the final official version. These revisions need not be submitted for further approval.

Note: *Approval of forms based on advance drafts will not be granted after the final version of an official form is published.*

2.5.3 Submission Procedures

Please follow these general guidelines when submitting substitute forms for approval.

- Any alteration of forms must be within the limits acceptable to the Service. It is possible that, from one filing period to another, a change in law or a change in internal need (processing, audit, compliance, etc.) may change the allowable limits for the alteration of the official form.
 - When specific approval of any substitute form (other than those specified in Chapter 2, IRS Contacts) is desired, a sample of the proposed substitute should be forwarded for consideration by letter to the Substitute Forms Program Unit at the address shown in Section 1.2.
 - To expedite multiple forms approval, we prefer that your proposed forms be submitted in separate sets by return. For example, Forms 1040 and their normally related schedules or attachments should be submitted separately from Forms 1120 and 1065 if possible. Schedules and forms (e.g., Forms 3468, 4136, etc.) that can be used with more than one type of return (e.g., 1040, 1041, 1120, etc.) should be submitted only once for approval, regardless of the number of different tax returns with which they may be associated. Also, all pages of multi-page forms or returns should be submitted in the same package.
-

2.5.4 Approving Offices

As no IRS office except the ones specified in this procedure (per the chart in Section 1.2) are authorized to approve substitute forms, unnecessary delay may result if forms are sent elsewhere for approval. All forms submitted to any other office must be forwarded to the appropriate office for formal control and review. The Substitute Forms Program Unit may then coordinate the response with the program analyst responsible for the processing of that form. Such coordination may include allowing the analyst to officially approve the form. No IRS office is authorized to allow deviations from this revenue procedure.

2.5.5 Service's Review of Software Programs, etc.

The IRS does not review or approve the logic of specific software programs, nor does the IRS confirm the calculations on the forms produced by these programs. The accuracy of the program remains the responsibility of the software package developer, distributor, or user.

The Substitute Forms Program is primarily concerned with the pre-filing quality review of the final forms, produced by whatever means, that are expected to be processed by IRS field offices. For the above reasons, you should submit forms without including any "taxpayer" information such as names, addresses, monetary amounts, etc.

2.5.6 When To Send Proposed Substitutes

Proposed substitutes, which are required to be submitted per this revenue procedure, should be sent as much in advance of the filing period as possible. This is to allow adequate time for analysis and response.

2.5.7 Accompanying Statement

When submitting sample substitutes, you should include an accompanying statement that lists each form number and its changes from the official form (position, arrangement, appearance, line numbers, additions, deletions, etc.). With each of the items you should include a detailed reason for the change and an estimate of the number of forms expected to be filed.

When requesting approval for multiple forms, the statement should be presented as a checklist. Checklists are not mandatory, but do expedite the approval process. The checklist may look like the example (Exhibit C) displayed in the back of this procedure or may be one of your own design. Please include your fax number on the checklist.

2.5.8 Approval/Non-Approval Notice

The Substitute Forms Unit will fax the checklist or an approval letter to the originator if a fax number has been provided, unless:

- The requester has asked for a formal letter; or
- Significant corrections to the submitted forms are required.

Notice of approval may contain qualifications for use of the substitutes. Notices of nonapproval letters may specify the changes required for approval, and may also require re-submission of the form(s) in question. Telephone contact is used when possible.

2.5.9 Duration of Approval

Most signature tax returns and many of their schedules and related forms have the tax (liability) year printed in the upper right corner. Approvals for these forms are usually good for one calendar year (January through December of the year of filing). Quarterly tax forms in the 94X series and Form 720 require approval for any quarter in which the form has been revised.

Because changes are made to a form every year, each new filing season generally requires a new submission of a form. Very rarely is updating the preprinted year the only change made to a form.

2.5.10 Limited Continued Use of an Approved Change

Limited continued use of a change approved for one tax year may be allowed for the same form in the following tax year. Examples of such limitations and requirements are the use of abbreviated words, revised form spacing, compressed text lines, shortened captions, etc., which do not change the consistency of lines or text on the official forms.

If substantial changes are made to the form, new substitutes must be submitted for approval. If only minor editorial changes are made to the form, it is not subject to review. It is the responsibility of each vendor who has been granted permission to use substitute forms to monitor and revise forms to mirror any revisions to official forms made by the Service. If there are any questions, please contact the Substitute Forms Unit.

If you received written approval of a previous tax year substitute form governed by this revenue procedure and continue to use the approved change on your current tax year substitute form, you may revise your form to include this change. Without additional written approval, you may use it as a current tax year substitute form, provided you comply with the requirements in this revenue procedure.

2.5.11 When Approval Is Not Required

If you received written approval for a specific change on a form last year, such as deleting the vertical lines used to separate dollars and cents, you may make the same change this year if the item is still present on the official form.

- The new substitute does not have to be sent to the IRS and written approval is not required.

- However, the new substitute must conform to the official current year IRS form in other respects: date, Office of Management and Budget (OMB) approval number, attachment sequence number, Paperwork Reduction Act Notice Statement, arrangement, item caption, line number, line reference, data sequence, etc.
- It must also comply with this revenue procedure. The procedure may have eliminated, added to, or otherwise changed the guideline(s) that affected the change approved last year.
- An approved change is authorized only for the period from a prior tax year substitute form to a current tax year substitute form.

Exception: Forms with temporary, limited, or interim approvals (or with approvals that state an approved change is not allowed in any other tax year) are subject to review in subsequent years.

2.5.12 Continuous Use Forms

Forms without preprinted tax years are called “continuous use” forms. Continuous use forms are revised when a legislative change affects the form or a change will facilitate processing. These forms may have revision dates that are valid for longer than one year.

2.5.13 Internet Program Chart

A chart of print dates (for annual and quarterly forms) and most current revision dates (for continuous use forms) will be maintained on the Internet. For further details, see Section 4.3.1 on access to the Internet.

2.5.14 Required Copies

Generally, you must send us one copy of each form being submitted for approval. However, if you are producing forms for different computer systems (*e.g.*, IBM (or compatible) vs. Macintosh) or different types of printers (laser vs. dot matrix), and these forms differ significantly in appearance, submit one copy for each type of system or printer.

2.5.15 Requestor’s Responsibility

Following the receipt of initial approval for a substitute forms package or of a software output program to print substitute forms, it is the responsibility of the originator (designer or distributor) to provide client firms or individuals with the Service forms requirements that must be met for continuing acceptability. Examples of this responsibility include:

- Using the prescribed print paper, font size, legibility, state tax data deletion, etc.
- Informing all users of substitute forms of the legal requirements of the Paperwork Reduction Act Notice, which is generally found in the instructions for the official IRS forms.

2.5.16 Source Code

The Substitute Forms Program Unit, W:CAR:MP:FP:S:CS, will assign a unique source code to each firm that submits substitute paper forms for approval. This will be a permanent control number that should be used on every form created by a particular firm.

The source code:

- For paper returns consists of three alpha characters.
- Should be printed at the bottom left margin area on the first page of every approved substitute paper form.
- Should not be used on optically scanned (OCR) forms.

Section 2.6—Office of Management and Budget (OMB) Requirements for All Substitute Forms

2.6.1 OMB Requirements for All Substitute Forms

There are legal requirements of the Paperwork Reduction Act of 1995 (The Act). Public Law 104–13 requires that:

- OMB approve all IRS tax forms that are subject to the Act,
- Each IRS form contains (in the upper right corner) the OMB number, if any, and
- Each IRS form (or its instructions) states why IRS needs the information, how it will be used, and whether or not the information is required to be furnished.

This information must be provided to every user of official or substitute tax forms.

2.6.2 Application of the Paperwork Reduction Act

On forms that have been assigned OMB numbers:

- All substitute forms must contain in the upper right corner the OMB number that is on the official form.
- The required format is: **OMB No. XXXX-XXXX** (Preferred) or **OMB # XXXX-XXXX** (Acceptable).

2.6.3 Required Explanation to Users

You must inform the users of your substitute forms of the IRS use and collection requirements stated in the instructions for official IRS forms.

- If you provide your users or customers with the official IRS instructions, page 1 of each form must retain either the Paperwork Reduction Act Notice (or Disclosure, Privacy Act, and Paperwork Reduction Act Notice), or a reference to it as the IRS does on the official forms (usually in the lower left corner of the forms).
- This notice reads, in part, “We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax....”

Note: *If the IRS instructions are not provided to users of your forms, the exact text of the Paperwork Reduction Act Notice (or Disclosure, Privacy Act, and Paperwork Reduction Act Notice) must be furnished separately or on the form.*

2.6.4 Finding the OMB Number and Paperwork Reduction Act Notice

The OMB number and the Paperwork Reduction Act Notice, or references to it, may be found printed on an official form (or its instructions). The number and the notice are included on the official paper format and in other formats produced by the IRS (*e.g.*, compact disc (CD) or Internet download)

Chapter 3 Physical Aspects and Requirements

Section 3.1—General Guidelines for Substitute Forms

3.1.1 General Information

The official form is the standard. Because a substitute form is a variation from the official form, you should know the requirements of the official form for the year of use before you modify it to meet your needs. The IRS provides several means of obtaining the most frequently used tax forms. These include the Internet, fax-on-demand, and CD-ROM (see Chapter 4).

3.1.2 Design

Each form must follow the design of the official form as to format arrangement, item caption, line numbers, line references, and sequence.

3.1.3 State Tax Information Prohibited

State tax information must not appear on the Federal tax return, associated form, or schedule that is filed with the IRS. Exceptions occur when amounts are claimed on, or required by, the Federal return (*e.g.*, state and local income taxes, on Schedule A of Form 1040).

3.1.4 Vertical Alignment of Amount Fields

IF a form is to be...	THEN...
Manually prepared	<ul style="list-style-type: none">• The column must have a vertical line or some type of indicator in the amount field to separate dollars from cents, if the official form has a vertical line.• The cents column must be at least 3/10" wide.
Computer-generated	<ul style="list-style-type: none">• Vertically align the amount entry fields where possible.• Use one of the following amount formats:<ul style="list-style-type: none">• 0,000,000.• 0,000,000.00.
Computer-prepared	<ul style="list-style-type: none">• You may remove the vertical line in the amount field that separates dollars from cents.• Use one of the following amount formats:<ul style="list-style-type: none">• 0,000,000.• 0,000,000.00.

3.1.5 Attachment Sequence Number

Many individual income tax forms have a required “attachment sequence number” located just below the year designation in the upper right corner of the form. The IRS uses this number to indicate the order

in which forms are to be attached to the tax return for processing. Some of the attachment sequence numbers may change each year.

On computer-prepared forms:

- The sequence number may be printed in no less than 12-point boldface type and centered below the form's year designation.
- The sequence number may also be placed following the year designation for the tax form and separated with an asterisk.
- The actual number may be printed without labeling it the "Attachment Sequence Number."

3.1.6 Paid Preparer's Information and Signature Area

On Forms 1040EZ, 1040A, 1040, and 1120, etc., the "Paid Preparer's Use Only" area may not be rearranged or relocated. You may, however, add three extra lines to the paid preparer's address area without prior approval. This applies to other tax forms as well.

3.1.7 Assembly of Forms

If developing software or forms for use by others, please inform your customers/clients that the order in which the forms are arranged may affect the processing of the package. A return must be arranged in the order indicated below.

IF the form is...	THEN the sequence is...
1040	<ul style="list-style-type: none">• Form 1040.• Schedules and forms in sequence number order.
Any other tax return (Form 1120, 1120S, 1065, 1041, etc.)	<ul style="list-style-type: none">• The tax return.• Directly associated schedules (Schedule D, etc.).• Directly associated forms.• Additional schedules in alphabetical order.• Additional forms in numerical order.

Supporting statements should then follow in the same sequence as the forms they support. Additional information required should be attached last.

In this way, the forms are received in the order in which they must be processed. If you do not send returns to us in order, processing may be delayed.

Section 3.2—Paper

3.2.1 Paper Content

The paper must be:

- Chemical wood writing paper that is equal to or better than the quality used for the official form,
- At least 18 pound (17" x 22", 500 sheets), or
- At least 50 pound offset book (25" x 38", 500 sheets).

3.2.2 Paper With Chemical Transfer Properties

There are several kinds of paper prohibited for substitute forms. These are:

- Carbon-bonded paper.
- Chemical transfer paper except when the following specifications are met:
 - Each ply within the chemical transfer set of forms must be labeled, and
 - Only the top ply (ply one and white in color), the one that contains chemical on the back only (coated back), may be filed with the Service.

3.2.3 Example

A set containing three plies would be constructed as follows: ply one (coated back), "Federal Return, File with IRS"; ply two (coated front and back), "Taxpayer's copy"; and ply three (coated front), "Preparer's copy."

The file designation, "Federal Return, File with IRS," for ply one must be printed in the bottom right margin (just below the last line of the form) in 12-point, bold-face type.

It is not mandatory, but recommended, that the file designation “Federal Return, File with IRS,” be printed in a contrasting ink for visual emphasis.

3.2.4 Carbon Paper

Do not attach any carbon paper to any return you file with the IRS.

3.2.5 Paper and Ink Color

We prefer that the color and opacity of paper substantially duplicates that of the original form. This means that your substitute must be printed in black ink and may be on white or on the colored paper the IRS form is printed on. Forms 1040A and 1040 substitute reproductions may be in black ink without the colored shading. The only exception to this rule is Form 1041–ES, which should always be printed with a very light gray shading in the color screened area. This is necessary to assist us in expeditiously separating this form from the very similar Form 1040–ES.

3.2.6 Page Size

Substitute or reproduced forms and computer prepared/generated substitutes may be the same size as the official form (8" x 11" in most cases) or they may be the standard commercial size (8 1/2" x 11") exclusive of pin-feed holes. The thickness of the stock cannot be less than .003 inch.

Section 3.3—Printing

3.3.1 Printing Medium

The private printing of all substitute tax forms must be by conventional printing processes, photocopying, computer-graphics, or similar reproduction processes.

3.3.2 Legibility

All forms must have a high standard of legibility as to printing, reproduction, and fill-in matter. Entries of taxpayer data may be no smaller than eight points. The IRS reserves the right to reject those with poor legibility. The ink and printing method used must ensure that no part of a form (including text, graphics, data entries, etc.) develops “smears” or similar quality deterioration. This includes any subsequent copies or reproductions made from an approved master substitute form, either during preparation or during IRS processing.

3.3.3 Type Font

Many Federal tax forms are printed using “Helvetica” as the basic type font. We request that you use this type font when composing substitute forms.

3.3.4 Print Spacing

Substitute forms should be printed using a 6 lines/inch vertical print option. They should also be printed horizontally in 10 pitch pica (*i.e.*, 10 print characters per inch) or 12 pitch elite (*i.e.*, 12 print positions per inch).

3.3.5 Image Size

The image size of a printed substitute form should be as close as possible to that of the official form. You may omit any text on both computer-prepared and computer-generated forms that is solely instructional.

3.3.6 Title Area Changes

To allow a large top margin for marginal printing and more lines per page, the title line(s) for all substitute forms (not including the form’s year designation and sequence number, when present) may be photographically reduced by 40 percent or reset as one line of type. When reset as one line, the type size may be no smaller than 14-point. You may omit “Department of the Treasury, Internal Revenue Service” and all reference to instructions in the form’s title area.

3.3.7 Remove Government Printing Office Symbol and IRS Catalog Number

When privately printing substitute tax forms, the Government Printing Office (GPO) symbol and/or jacket number must be removed. In the same place, using the same type size, print the Employer Identification Number (EIN), the Social Security Number (SSN) of the printer or designer, or the IRS-assigned source code. (We prefer this last number be printed in the lower left area of the first page of each form.) Also, remove the IRS Catalog Number (Cat. No.) if one is present in the bottom center margin, and the recycle symbol if the substitute is not produced on recycled paper.

3.3.8 Printing on One Side of Paper

While it is preferred that both sides of the paper be used for substitute and reproduced forms, resulting in the same page arrangement as that of the official form or schedule, the IRS will not reject your forms if only one side of the paper is used.

3.3.9 Photocopy Equipment

The IRS does not undertake to approve or disapprove the specific equipment or process used in reproducing official forms. Photocopies of forms must be entirely legible and satisfy the conditions stated in this and other revenue procedures.

3.3.10 Reproductions

Reproductions of official forms and substitute forms that do not meet the requirements of this revenue procedure may not be filed instead of the official forms. Illegible photocopies are subject to being returned to the filer for re-submission of legible copies.

3.3.11 Removal of Instructions

You may remove references to instructions. No prior approval is needed.

Exception: *The words “For Paperwork Reduction Act Notice, see instructions” must be retained or a similar statement provided on each form. Some forms refer the taxpayer to a page number in the instructions for information on the Paperwork Reduction Act Notice.*

Section 3.4—Margins

3.4.1 Margin Size

The format of a reproduced tax return when printed on the page must have margins on all sides at least as large as the margins on the official form. This allows room for IRS employees to make the necessary entries on the form during processing.

- A 1/2 inch to 1/4 inch margin must be maintained across the top, bottom, and both sides (exclusive of any pin-fed holes) of all computer-generated substitutes.
 - The marginal, perforated strips containing the pin-fed holes must be removed from all forms prior to filing with the Internal Revenue Service.
-

3.4.2 Marginal Printing

Prior approval is not required for the marginal printing allowed when printed on an official form or on a photocopy of an official form.

- With the exception of the actual tax return forms (*i.e.*, Forms 1040, 1040A, 1040EZ, 1120, 940, 941, etc.), you may print in the left vertical margin and in the left half of the bottom margin.
 - Printing is never allowed in the top right margin of the tax return form (*i.e.*, Forms 1040, 1040A, 1040EZ, 1120, 940, 941, etc.). The Service uses this area to imprint a Document Locator Number for each return. There are no exceptions to this requirement.
-

Section 3.5—Examples of Approved Formats

3.5.1 Examples of Approved Formats From the Exhibits

Two sets of exhibits (Exhibits A-1, A-2, B-1, and B-2) are at the end of this revenue procedure. These are examples of how the guidelines in this revenue procedure may be used in some specific cases. Vertical spacing is six (6) lines to the inch.

3.5.2 Examples of Acceptable Computer-Generated Formats

Examples of acceptable computer-generated formats are also shown in the exhibits section of this revenue procedure. Exhibits CG-A and CG-B show computer-generated 1995 Schedules A and B. Vertical spacing is six (6) lines to the inch. You may also refer to them as examples of how the guidelines in this revenue procedure may be used in specific cases. A combination of upper and lower-case print fonts is acceptable in producing the computer-generated forms included in this procedure. The same logic for computer-generated forms can be applied to any IRS form that is normally reproducible as a substitute form, with the exception of tax return forms as discussed elsewhere. These examples are from a prior year and are not to be used as substitute forms.

Section 3.6—Miscellaneous Information for Substitute Forms

3.6.1 Filing Substitute Forms

To be acceptable for filing, a substitute return or form must print out in a format that will allow the party submitting the return to follow the same instructions as for filing official forms. These instructions are in the taxpayer's tax package or in the related form instructions. The form must be on the appropriate size paper, be legible, and include a jurat where one appears on the published form.

3.6.2 Caution to Software Publishers

The IRS has received returns produced by software packages with approved output where either the form heading was altered or the lines were spaced irregularly. This produces an illegible or unrecognizable return or a return with the wrong number of pages. We realize that many of these problems are caused by individual printer differences but they may delay input of return data and, in some cases, generate correspondence to the taxpayer. Therefore, in the instructions to the purchasers of your product, both individual and professional, please stress that their returns will be processed more efficiently if they are properly formatted. This includes:

- Having the correct form numbers and titles at the top of the return, and
 - Submitting the same number of pages as if the form were an official IRS form with the line items on the proper pages.
-

3.6.3 Use Pre- Addressed IRS Label

If you are a practitioner filling out a return for a client or a software publisher who prints instruction manuals, stress the use of the pre-addressed label provided in the tax package the IRS sent to the taxpayer, when available. The use of this label (or its precisely duplicated label information) is extremely important for the efficient, accurate, and economical processing of a taxpayer's return. Labeled returns indicate that a taxpayer is an established filer and permits the IRS to automatically accelerate processing of those returns. This results in quicker refunds, more accurate names/addresses and postal deliveries, and less manual review by IRS functions.

3.6.4 Caution to Producers of Software Packages

If you are producing a software package that generates name and address data onto the tax return, do not under any circumstances, program either the Service preprinted check digits or a practitioner-derived name control to appear on any return prepared and filed with the IRS.

3.6.5 Programming To Print Forms

Whenever applicable:

- Use only the following label information format for single filers:
JOHN Q. PUBLIC
310 OAK DRIVE
HOMETOWN, STATE 94000
 - Use only the following information for joint filers:
JOHN Q. PUBLIC
MARY I. PUBLIC
310 OAK DRIVE
HOMETOWN, STATE 94000
-

Chapter 4 Additional Resources

Section 4.1—Guidance From Other Revenue Procedures

4.1.1 General

Guidance for the substitute tax forms not covered in this revenue procedure and the revenue procedures that govern their use are as follows:

- Revenue Procedure 94–79, IRS Publication 1355, *Requirements and Conditions for the Reproduction, Private Design, and Printing of Substitute Forms 1040–ES*.
- Revenue Procedure 2001–26, IRS Publication 1141, *General Rules and Specifications for Private Printing of Substitute Forms W-2 and W-3*.

- Revenue Procedure 2000–28, IRS Publication 1179, *Rules and Specifications for Private Printing of Substitute Forms 1096, 1098, 1099, 5498, and W-2G*.
- Revenue Procedure 2001–40, IRS Publication 1187, *Specifications for Filing Form 1042–S, Foreign Person’s U.S. Source Income Subject to Withholding Magnetically or Electronically*.
- Revenue Procedure 2001–32, IRS Publication 1220, *Specifications for Filing Forms 1098, 1099, 5498, and W-2G Magnetically or Electronically*.
- Revenue Procedure 95–18, IRS Publication 1223, *Specifications for Private Printing of Substitute Forms W-2c and W-3c*.

Section 4.2—Ordering Publications

4.2.1 Sources of Publications

The publications listed below are available either on the IRS Internet web site or may be ordered by calling 1-800-TAX-FORM (1-800-829-3676). Identify the requested document by IRS publication number:

- Pub. 1141, the revenue procedure on specifications for private printing for Forms W-2 and W-3.
- Pub. 1167, the revenue procedure on substitute printed, computer-prepared, and computer-generated tax forms and schedules.
- Pub. 1179, the revenue procedure on paper substitute information returns (Forms 1096, 1098, 1099, 5498, and W-2G).
- Pub. 1220, the revenue procedure on electronic or magnetic reporting for information returns (Forms 1098, 1099 series, 5498, and W-2G).
- Pub. 1223, the revenue procedure on substitute Forms W-2c and W-3c.
- Pub. 1239, *Specifications for Filing Form 8027, Employer’s Annual Information Return of Tip Income and Allocated Tips, on Magnetic Tape*.
- Pub. 1245, *Magnetic Tape Reporting for Forms W-4*.
- Pub. 1345, *Handbook for Electronic Filers of Individual Income Tax Returns (Tax Year 2000)*. (This is an annual publication; tax year is subject to change).
- Pub. 1345-A, *Handbook for Electronic Filers of Individual Income Tax Returns (Tax Year 2000)* (Supplement). This publication, printed in the late fall, supplements Publication 1345.
- Pub. 1355, the revenue procedure on the requirements for substitute Form 1040–ES.

4.2.2 Where To Order

If you are mailing your order, the address to use is determined by your location.

IF you live in the ...	THEN mail your order to ...
Western United States	Western Area Distribution Center Rancho Cordova, CA 95743-0001
Central United States	Central Area Distribution Center P.O. Box 8903 Bloomington, IL 61702-8903
Eastern United States or a foreign country	Eastern Area Distribution Center P.O. Box 85074 Richmond, VA 23261-5074

Section 4.3—Electronic Tax Products

4.3.1 The Internet

Copies of tax forms with instructions, publications, and other tax-related materials may be obtained via the Internet at www.irs.gov. Forms can be downloaded in several file formats (PDF - Portable Document Format, PS - PostScript, and PCL - Printer Control Language). Those choosing to use PDF files for viewing on a personal computer can also download a free copy of the Adobe Acrobat Reader.

4.3.2 Tax Fax

The most frequently requested tax forms, instructions, and other information are available through IRS Tax Fax at (703) 368-9694. Call from your fax machine and follow the voice prompts. Your request will be transmitted directly back to you. Each call is limited to requesting three items; users pay the telephone line charges.

4.3.3 Report of Print Dates

The Service makes available a site on the Internet that shows print dates for forms used by taxpayers in the preparation of returns and subsequent transactions. It has three schedules:

- Anticipated print dates of annual returns,
- Anticipated print dates of quarterly returns, and
- Last revision dates for continuous use only forms.

The site address is http://www.irs.gov/prod/bus_info/tax_pro/formsch.html. The site will be updated weekly during peak printing periods and as necessary at other times.

Section 4.4—Federal Tax Forms on CD-ROM

4.4.1 Information About Federal Tax Forms CD-ROM

The CD-ROM contains over 3,000 tax forms and publications for small businesses, return preparers, and others who frequently need current or prior year tax products. Most current tax forms on the CD-ROM may be filled in electronically, then printed out for submission and saved for record keeping. Other products on the CD-ROM include the Internal Revenue Bulletins, Tax Supplements, and Internet resources for the tax professional with links to the World Wide Web.

All necessary software to view the files must be installed from the CD-ROM. Software for Adobe Acrobat Reader is included on the disk. The software will run under Windows 95/98/NT and Macintosh System 7.5 and later. All products are presented in Adobe's Portable Document Format (PDF). In addition, the TIPs are provided in the Hyper Text Markup Language (HTML).

4.4.2 System Requirements and How To Order the Federal Tax Forms CD-ROM

For system requirements, contact the National Technical Information Service (NTIS) help desk at 703-487-4608.

The cost of the CD, if purchased via the Internet at <http://www.irs.gov/cdorders> from NTIS, is \$21 (with no handling fee).

If purchased using the following methods, the cost for each CD is \$21 (plus a \$5 handling fee). The price for 100 or more copies is \$15.75 per CD (plus a \$5 handling fee). These methods are:

- By phone - 1-877-CDFORMS (1-877-233-6767)
 - By fax - (703) 605-6900
 - By mail using the order form contained in IRS Publication 1045 (Tax Professionals Program)
 - By mail to:
National Technical Information Service
5285 Port Royal Road
Springfield, VA 22161
-

Chapter 5 Requirements for Specific Tax Returns

Section 5.1—Tax Returns (Form 1040, 1040A, 1120, Etc.)

5.1.1 Acceptable Forms

Tax return forms (such as Forms 1040, 1040A, and 1120) require signature and establish tax liability upon completion. Computer-generated versions are acceptable under the following conditions:

- These substitute returns must be printed on plain white paper.
- Substitute returns and forms must conform to the physical layout of the corresponding IRS form although the typeface may differ. The text should match the text on the officially published form as

closely as possible. Condensed text and abbreviations will be considered on a case-by-case basis. Caution: All jurats (perjury statements) must be reproduced verbatim. No text can be added, deleted, or changed in meaning.

- Various computer-graphic print media such as laser printing, dot matrix printing, etc., may be used to produce the substitute forms.
- The substitute return must be the same number of pages and contain the same line text as the official return.
- All computer-generated tax returns must be submitted for approval prior to their original use. You do not need approval for a substitute tax return form if its only change is the preprinted year and you had received a prior year approval letter.

Exception: *If the approval letter specifies a one-time exception for your return, the next year's return must be approved.*

5.1.2 Prohibited Forms

The following are prohibited:

- Tax returns (*e.g.*, Forms 1040, etc.) computer-generated on lined or color-barred paper.
- Tax returns that differ from the official IRS forms in a manner that makes them not standard or processable.

5.1.3 Changes Permitted to Forms 1040 and 1040A

Certain changes (listed in Sections 5.2 through 5.4) are permitted to the graphics of the form without prior approval, but these changes apply only to acceptable preprinted forms. Changes not requiring prior approval are good only for the annual filing period, which is the current tax year. Such changes are valid in subsequent years only if the official form does not change.

5.1.4 Other Changes Not Listed

All changes not listed in Sections 5.2 through 5.4 require approval from the Service **before** the form may be filed.

Section 5.2—Changes Permitted to Graphics (Forms 1040A and 1040)

5.2.1 Adjustments

You may make minor vertical and horizontal spacing adjustments to allow for computer or word-processing printing. This includes widening the amount columns or tax entry areas if the adjustments comply with other provisions stated in revenue procedures. No prior approval is needed for these changes.

5.2.2 Name and Address Area

The horizontal rules and instructions within the name and address area may be removed and the entire area left blank. No line or instruction can remain in the area. However, the statement regarding use of the IRS label should be retained. The heavy ruled border (when present) that outlines the name, address area, and social security number must not be removed, relocated, expanded, or contracted.

5.2.3 Required Format

When the name and address area is left blank, the following format must be used when printing the taxpayer's name and address. Otherwise, unless the taxpayer's preprinted label is affixed over the information entered in this area, the lines must be filled in as shown:

- 1st name line (35 characters maximum).
- 2nd name line (35 characters maximum).
- In-care-of name line (35 characters maximum).
- City, state (25 characters maximum), one blank character, & ZIP code.

5.2.4 Conventional Name and Address Data

When there is no in-care-of name line, the name and address will consist of only three lines (single filer) or four lines (joint filer). Name and address (joint filer) with no in-care-of name line:

JOHN Z. JONES
MARY I. JONES
1234 ANYWHERE ST., APT 111
ANYTOWN, STATE 12321

5.2.5 Example of In-Care-Of Name Line

Name and address (single filer) with in-care-of name line:

JOHN Z. JONES
C/O THOMAS A. JONES
4311 SOMEWHERE AVE.
SAMETOWN, STATE 54345

5.2.6 SSN and Employer Identification Number (EIN) Area

The vertical lines separating the format arrangement of the SSN/EIN may be removed. When the vertical lines are removed, the SSN and EIN formats must be 000-00-0000 or 00-0000000, respectively.

5.2.7 Cents Column

- You may remove the vertical rule that separates the dollars from the cents.
 - All entries in the amount column should have a decimal point following the whole dollar amounts whether or not the vertical line that separates the dollars from the cents is present.
 - You may omit printing the cents, but all amounts entered on the form must follow a consistent format. You are strongly urged to round off the figures to whole dollar amounts, following the official return instructions.
 - When several amounts are summed together, the total should be rounded off after addition (*i.e.*, individual amounts should not be rounded off for computation purposes).
 - When printing money amounts, you must use one of the following ten-character formats: (a) 0,000,000. (b) 000,000.00.
 - When there is no entry for a line, leave the line blank.
-

5.2.8 “Paid Preparer’s Use Only” Area

On all forms, the paid preparer’s information area may not be rearranged or relocated. You may add three lines and remove the horizontal rules in the preparer’s address area.

Section 5.3—Changes Permitted to Form 1040A Graphics

5.3.1 General

No prior approval is needed for the following changes (for use with computer-prepared forms only).

5.3.2 Line 4 of Form 1040A

This line may be compressed horizontally (to allow for same line entry for the name of the qualifying child) by using the following caption: “Head of household; child’s name” (name field).

5.3.3 Other Lines

Any line with text that takes up two or more vertical lines may be compressed to one line by using contractions, etc., and by removing instructional references.

5.3.4 Page 2 of Form 1040A

All lines must be present and numbered in the order shown on the official form. These lines may also be compressed.

5.3.5 Color Screening

It is not necessary to duplicate the color screening used on the official form. A substitute Form 1040A may be printed in black and white only with no color screening.

5.3.6 Other Changes Prohibited

No other changes to the Form 1040A graphics are allowed without prior approval except for the removal of instructions and references to instructions.

Section 5.4—Changes Permitted to Form 1040 Graphics

5.4.1 General

No prior approval is needed for the following changes (for use with computer-prepared forms only).

5.4.2 Line 4 of Form 1040	This line may be compressed horizontally (to allow for a larger entry area for the name of the qualifying child) by using the following caption: “Head of household; child’s name” (name field).
5.4.3 Line 6c of Form 1040	The vertical lines separating columns (1) through (4) may be removed. The captions may be shortened to allow a one-line caption for each column.
5.4.4 Other Lines	Any other line with text that takes up two or more vertical lines may be compressed to one line by using contractions, etc., and by removing instructional references.
5.4.5 Line 21 - Other Income	The fill-in portion of this line may be expanded vertically to three lines. The amount entry box must remain a single entry.
5.4.6 Line 40 of Form 1040 - Tax	You may change the line caption to read “Tax” and computer print the words “Total includes tax from” and either “Form(s) 8814” or “Form 4972”. If both forms are used, print both form numbers.
5.4.7 Line 49 of Form 1040	You may change the caption to read: “Other credits from Form” and computer-print only the form(s) that apply.
5.4.8 Color Screening	It is not necessary to duplicate the color screening used on the official form. A substitute Form 1040 may be printed in black and white only with no color screening.
5.4.9 Other Changes Prohibited	No other changes to the Form 1040 graphics are permitted without prior approval except for the removal of instructions and references to instructions.

Chapter 6 Format and Content of Substitute Returns

Section 6.1—Acceptable Formats for Computer-Generated Forms and Schedules

6.1.1 Exhibits and Use of Acceptable Computer-Generated Formats	<p>Exhibits of acceptable computer-generated formats for the schedules usually attached to the Form 1040 are shown in the exhibits section of this revenue procedure.</p> <ul style="list-style-type: none"> • If your computer-generated forms appear exactly like the exhibits, no prior authorization is needed. • You may computer-generate forms not shown here, but you must design them by following the manner and style of those in the exhibits section. Take care to observe other requirements and conditions in this revenue procedure. The Service encourages the submission of all proposed forms covered by this revenue procedure.
6.1.2 Instructions	The format of each substitute schedule or form must follow the format of the official schedule or form as to item captions, line references, line numbers, sequence, form arrangement and format, etc. Basically, try to make the form look like the official one, with readability and consistency being primary factors. You may use periods and/or other similar special characters to separate the various parts and sections of the form. DO NOT use alpha or numeric characters for these purposes. With the exceptions described in paragraph 6.1.3, all line numbers and items must be printed even though an amount is not entered on the line.
6.1.3 Line Numbers	When a line on an official form is designated by a number or a letter, that designation (reference code) must be used on a substitute form. The reference code must be printed to the left of the text of each line and immediately preceding the data entry field, even if no reference code precedes the data entry field on the official form. If an entry field contains multiple lines and shows the line references once on the left and right side of the form, use the same number of line references on the substitute return.

In addition, the reference code that is immediately before the data field must either be followed by a period or enclosed in parentheses. There also must be at least two blank spaces between the period or the right parenthesis and the first digit of the data field. (See example below.)

6.1.4 Decimal Points

A decimal point (*i.e.*, a period) should be used for each money amount regardless of whether the amount is reported in dollars and cents or in whole dollars, or whether or not the vertical line that separates the dollars from the cents is present. The decimal points must be vertically aligned when possible.

Example:

```
5 STATE & LOCAL INC.  
  TAXES.....5 495.00  
6 REAL ESTATE  
  TAXES.....6  
7 PERSONAL PROPERTY  
  TAXES.....7 198.00  
    or  
5 STATE & LOCAL INC.  
  TAXES.....(5) 495.00  
6 REAL ESTATE  
  TAXES.....(6)  
7 PERSONAL PROPERTY  
  TAXES.....(7) 198.00
```

6.1.5 Multi-Page Forms

When submitting a multi-page form, send all its pages in the same package. If you are not producing certain pages, please note that in your cover letter.

Section 6.2—Additional Instructions for All Forms

6.2.1 Use of Your Own Internal Control Numbers and Identifying Symbols

You may show computer-preparer internal control numbers and identifying symbols on the substitute, if using such numbers or symbols is acceptable to the taxpayer and the taxpayer's representative. Such information must not be printed in the top 1/2 inch clear area of any form or schedule requiring a signature. Except for the actual tax return form (Forms 1040, 1120, 940, 941, etc.), you may print in the left vertical and bottom left margins. The bottom left margin you may use extends 3 1/2 inches from the left edge of the form.

6.2.2 Descriptions for Captions, Lines, etc.

Descriptions for captions, lines, etc., appearing on the substitute forms may be limited to one print line by using abbreviations and contractions, and by omitting articles, prepositions, etc. However, sufficient key words must be retained to permit ready identification of the caption, line, or item.

6.2.3 Determining Final Totals

Explanatory detail and/or intermediate calculations for determining final line totals may be included on the substitute. We prefer that such calculations be submitted in the form of a supporting statement. If intermediate calculations are included on the substitute, the line on which they appear may not be numbered or lettered. Intermediate calculations may not be printed in the right column. This column is reserved only for official numbered and lettered lines that correspond to the ones on the official form. Generally, you may choose the format for intermediate calculations or subtotals on supporting statements to be submitted.

6.2.4 Instructional Text on the Official Form

Text on the official form, which is solely instructional (*e.g.*, "Attach this schedule to Form 1040," "See instructions," etc.) may be omitted from the substitute form.

6.2.5 Mixing Forms on the Same Page Prohibited

You may not show more than one schedule or form on the same printout page. Both sides of the paper may be printed for multi-page official forms, but it is unacceptable to intermix single-page schedules of forms except for Schedules A and B (Form 1040), which are printed back to back by the Service.

For instance, Schedule E can be printed on both sides of the paper because the official form is multi-page, with page 2 continued on the back. However, do not print Schedule E on the front page and Schedule SE on the back, or Schedule A on the front and Form 8615 on the back, etc. Both pages of a substitute form must match the official form. The back page may be left blank if the official form contains only the instructions.

6.2.6 Identifying Computer-Prepared Substitutes

Identify all computer-prepared substitutes clearly. Print the form designation 1/2 inch from the top margin and 1 1/2 inches from the left margin. Print the title centered on the first line of print. Print the taxable year and, where applicable, the sequence number on the same line 1/2 inch to 1 inch from the right margin. Include the taxpayer's name and SSN on all forms and attachments. Also, print the OMB number as reflected on the official form.

6.2.7 Negative Amounts

Negative (or loss) amount entries should be enclosed in brackets or parentheses or include a minus sign. This assists in accurate computation and input of form data. The Service preprints brackets in negative data fields on many official forms. These brackets should be retained or inserted on affected substitute forms.

Chapter 7 Miscellaneous Forms and Programs

Section 7.1—Paper Substitutes for Form 1042-S

7.1.1 Paper Substitutes

Paper substitutes for Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding*, that totally conform to the specifications contained in this procedure may be privately printed without prior approval from the Internal Revenue Service. Proposed substitutes not conforming to these specifications must be submitted for consideration.

7.1.2 Time Frame For Submission of Form 1042-S

The request should be submitted by November 15 of the year prior to the year the form is to be used. This is to allow the Service adequate time to respond and the submitter adequate time to make any corrections. These requests should contain a copy of the proposed form, the need for the specific deviation(s), and the number of information returns to be printed.

7.1.3 Revisions

Form 1042-S is subject to annual review and possible change. Withholding agents and form suppliers are cautioned against overstocking supplies of the privately printed substitutes.

7.1.4 Obtaining Copies

Copies of the official form for the reporting year may be obtained from most Service offices. The Service provides only cut sheets (no carbon interleaves) of these forms. Continuous fan-fold/pinned forms are not provided.

7.1.5 Instructions For Withholding Agents

Instructions for withholding agents:

- Only original copies may be filed with the Service. Carbon copies and reproductions are not acceptable.
- The term "Recipient's U.S. TIN" for an individual means the social security number (SSN) or IRS individual taxpayer identification number (ITIN), consisting of nine digits separated by hyphens as follows: 000-00-0000. For all other recipients, the term means employer identification number (EIN) or qualified intermediary employer identification number (QI-EIN). The EIN and QI-EIN consist of nine digits separated by a hyphen as follows: 00-0000000. The taxpayer identification number (TIN) must be in one of these formats.
- Withholding agents are requested to type or machine print whenever possible, provide quality data entries on the forms (that is, use black ribbon and insert data in the middle of blocks well separated from other printing and guidelines), and take other measures to guarantee a clear, sharp image. Withholding agents are not required, however, to acquire special equipment solely for the purpose of preparing these forms.
- The "VOID," "CORRECTED," and "PRO-RATA BASIS REPORTING" boxes must be printed at the top center of the form under the title and checked, if applicable.

- Substitute forms prepared in continuous or strip form must be burst and stripped to conform to the size specified for a single form before they are filed with the Service. The dimensions are found below. Computer cards are acceptable provided they meet all requirements regarding layout, content, and size.

7.1.6 Substitute Forms Format Requirements

Property	Substitute Forms Format Requirements
Printing	Privately printed substitute Forms 1042-S must be exact replicas of the official forms with respect to layout and content. Only the dimensions of the substitute form may differ. The Government Printing Office (GPO) symbol must be deleted. The exact dimensions are found below.
Box Entries	Only one item of income may be represented on the copy submitted to the Service (Copy A). Multiple income items may be used on copies provided to recipients only. All boxes appearing on the official form must be present on the substitute form, with appropriate captions.
Color and Quality of Ink	All printing must be in high quality non-gloss black ink. Bar codes should be free from picks and voids.
Typography	Type must be substantially identical in size and shape to corresponding type on the official form. All rules on the document are either 1 point (0.015") or 3 point (0.045"). Vertical rules must be parallel to the left edge of the document; horizontal rules must be parallel to the top edge.
Carbons	Carbonized forms or "spot carbons" are not permissible. Interleaved carbons, if used, must be of good quality to preclude smudging and should be black.
Assembly	If all five parts are present, the parts of the assembly shall be arranged from top to bottom as follows: Copy A (Original) "For Internal Revenue Service," Copies B, C, and D "For Recipient," and Copy E "For Withholding Agent."
Color Quality of Paper	<ul style="list-style-type: none"> • Paper For Copy A must be white chemical wood bond, or equivalent, 20 pound (basis 17 x 22-500), plus or minus 5 percent; or offset book paper, 50 pound (basis 25 x 38-500). No optical brighteners may be added to the pulp or paper during manufacture. The paper must consist of principally bleach chemical wood pulp or recycled printed paper. It also must be suitably sized to accept ink without feathering. • Copies B, C, D (for Recipient), and E (For Withholding Agent) are provided in the official assembly solely for the convenience of the withholding agent. Withholding agents may choose the format, design, color, and quality of the paper used for these copies.
Dimensions	<ul style="list-style-type: none"> • The official form is 8 inches wide x 5 1/2 inches deep, exclusive of a 1/2 inch snap stub on the left side of the form. The snap feature is not required on substitutes. • The width of a substitute Copy A must be a minimum of 7 inches and a maximum of 8 inches, although adherence to the size of the official form is preferred. If the width of substitute Copy A is reduced from that of the official form, the width of each field on the substitute form must be reduced proportionately. The left margin must be 1/2 inch

Property	Substitute Forms Format Requirements
Dimensions—continued	and free of all printing other than that shown on the official form. • The depth of a substitute Copy A must be a minimum of 5 1/6 inches and a maximum of 5 1/2 inches.
Other Copies	Copies B, C, and D must be furnished for the convenience of payees who must send a copy of the form with other Federal and State returns they file. Copy E may be used as a withholding agent's record/copy.

Section 7.2—Specifications for Substitute Schedules K-1

7.2.1 Schedule K-1 Requirements

Prior approval is not required for a substitute Schedule K-1 that accompanies Form 1065 (for partnership), Form 1120S (for small business corporation), or Form 1041 (for fiduciary) when the substitute Schedule K-1 meets all of the following requirements.

- The Schedule K-1 must contain the payer and recipient's name, address, and SSN/EIN.
- The Schedule K-1 must contain all the items required for use by the taxpayer.
- The line items must be in the same order and arrangement as those on the official form.
- The Schedule K-1 must include the OMB number.
- Each taxpayer's information must be on a separate sheet of paper. Therefore, all continuously printed substitutes must be separated, by taxpayer, before filing with the Service.
- Schedule K-1 for recipients must have instructions for required line items attached.
- You may be subject to penalties if you file Schedules K-1 with the Service and furnish Schedules K-1 to partners, shareholders, or beneficiaries that do not conform to the specifications of this revenue procedure.
- The amount of each partner's, shareholder's, or beneficiary's share of each line item must be shown. The furnishing of a total amount of each line item and a percentage (or decimal equivalent) to be applied to such total amount by the partner, shareholder, or beneficiary does not satisfy the law and the specifications of this revenue procedure.
- If you file Schedules K-1 not conforming to the above specifications, IRS may consider these as not processable and return them to you to be filed correctly. You may also be subjected to a penalty.

Section 7.3—Procedures for Printing IRS Envelopes

7.3.1 Procedures for Printing IRS Envelopes

Organizations are permitted to produce substitute tax return envelopes. Use of substitute return envelopes that comply with the requirements set forth in this section will assist in delivery of mail by the U.S. Postal Service and facilitate internal sorting at the Internal Revenue Service Centers.

Use the following five-digit ZIP codes when mailing returns to the IRS Service Centers:

Service Center	ZIP Code
Atlanta, GA	39901
Kansas City, MO	64999
Austin, TX	73301
Philadelphia, PA	19255
Memphis, TN	37501
Andover, MA	05501
Cincinnati, OH	45999
Holtsville, NY	00501
Ogden, UT	84201
Fresno, CA	93888

7.3.2 Sorting Returns by Form Type

Sorting returns by form type is accomplished by the preprinted bar codes on return envelopes included in each specific type of form or package mailed to the taxpayers. The 32 bit bar code on the left of the address on each envelope identifies the type of form the taxpayer is filing, and it assists in consolidating like returns for processing. Failure to use the envelopes furnished by the Service results in additional processing time and effort, and possibly delays the timely deposit of funds, processing of returns, and issuance of refund checks.

7.3.3 ZIP+4 or 9-Digit ZIP Codes

The IRS will not furnish or sell bulk quantities of preprinted tax return envelopes to taxpayers or tax practitioners. A suitable alternative has been developed that will accommodate the sorting needs of both the IRS and the United States Postal Service (USPS). The alternative is based on the use of ZIP + 4, or 9-digit ZIP codes for mailing various types of tax returns to the IRS Service Centers. The IRS uses the last four digits to identify and sort the various form types into separate groups for processing. The list of 4-digit extensions with the related form designations is provided below.

ZIP + FOUR	Package
XXXXXX-0002	1040
XXXXXX-0005	941
XXXXXX-0006	940
XXXXXX-0008	943
XXXXXX-0011	1065
XXXXXX-0012	1120
XXXXXX-0013	1120S
XXXXXX-0014	1040EZ
XXXXXX-0015	1040A
XXXXXX-0027	990
XXXXXX-0031	2290
XXXXXX-0042	945

7.3.4 Guidelines for Having Envelopes Preprinted

You may use the preparer company names, addresses, and logos as long as you do not interfere with the clear areas. The government recommends that the envelope stock have an average opacity of not less than 89 percent and contain a minimum of 50 percent waste paper. Use of carbon-based ink is essential for effective address and bar code reading. Envelope construction can be of side seam or diagonal seam design. The government recommends that the size of the envelope should be 5 3/4 inches by 9 inches. Continuous pin-fed construction is not desirable but is permissible if the glued edge is at the top. This requirement is firm because mail opening equipment is designed to open the bottom edge of each envelope.

7.3.5 Envelopes/ZIP Codes

The above procedures or guidelines are written for the user having envelopes preprinted. Many practitioners may not wish to have large quantities of envelopes with differing ZIP codes/form designations preprinted due to low volume, warehousing, waste, etc. In this case, the practitioner can type or machine print the addresses with the appropriate ZIP codes to accommodate sorting. If the requirements/guidelines outlined in this section cannot be met, then use only the appropriate five-digit service center ZIP code.

Section 7.4—Changes Involving EPMF Forms

7.4.1 Changes Involving Forms 5500 and 5500-EZ

All Forms 5500 and 5500-EZ are now processed by the Pension and Welfare Benefits Administration (PWBA), an agency of the Department of Labor.

Under the computerized ERISA Filing Acceptance System (EFAST) filers can choose between two computer scannable formats: “machine print” and “hand-print”. Machine print forms can be filed electronically or by mail using computer software from EFAST approved vendors. Hand-print forms cannot be filed electronically.

Forms 5500 and 5500-EZ for plan year 2000 are printed in black ink with gray shading in response to requests from Form 5500 software vendors who wanted to develop computer software for a hand-print version. The hand-print version for 2000 permits completion by hand, typewriter, or computer software from EFAST approved vendors.

Additional information is available on the PWBA web site, <http://www.efast.dol.gov>.

7.4.2 EFAST Processing Tips

To reduce the possibility of correspondence and penalties,

- Paper forms must be obtained from the IRS or printed using software from an EFAST approved software developer.
- Original forms are preferable. Photocopies may be rejected or cause correspondence requiring additional information.
- All information should be in the specific fields or boxes provided on the forms and schedules or the information may not be processed.
- Do not use felt tip pens or other writing instruments that can cause signatures or data to bleed through to the other side of the paper. One-sided documents should have no markings on the blank side.
- Paper should be clean without glue or other sticky substances.
- Do not staple the forms. Use binder clips or other fasteners that do not perforate the paper.
- Do not submit extraneous material or information such as arrows used to indicate where to sign, notes between preparers of the report, notations on the form, *e.g.*, “DOL copy,” etc.
- Do not submit unnecessary or blank schedules. Except for certain Schedule SSA filings specifically permitted by the instructions, schedules should be submitted only with a Form 5500 or in response to correspondence from the PWBA regarding processing your return/report.
- Manual entries on the machine print forms are not permitted.

Section 7.5—Procedures for Substitute Forms 5471 and 5472

7.5.1 Forms 5471 and 5472

This section covers instructions for producing substitutes for:

- Form 5471, *Information Return of U.S. Persons With Respect to Certain Foreign Corporations*, and accompanying Schedules J, M, N, and O.
- Form 5472, *Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business*.

7.5.2 Paper and Computer-Generated Substitutes

Paper and computer-generated substitutes for Form 5471 and the accompanying Schedules J, M, N, and O, and Form 5472 that totally conform to the specifications contained in this procedure may be privately printed, but must have prior approval and are subject to annual review from the Internal Revenue Service.

7.5.3 Where To Get the Official Forms

Copies of the official Forms 5471 and 5472 for the reporting year may be obtained from most IRS offices. The IRS provides only cut sheets of these forms. Continuous fan-folded/pin-fed forms are not provided.

7.5.4 Quality Substitute Forms

The Service will accept quality substitute tax forms that are consistent with the official forms they represent AND that do not have an adverse impact on our processing. Therefore, only those substitute forms that conform to, and do not deviate from, the corresponding official forms are acceptable.

7.5.5 Computer-Prepared Tax Forms

If the substitute returns and schedules meet the guidelines in this revenue procedure, the Service will (for filing purposes) accept computer-prepared Forms 5471 and 5472 filled in by a computer, word processing, or similar automated equipment. The IRS will also accept a combination of computer-prepared/generated and filled-in information. They may be filed separately or attached to individual or business income tax returns.

7.5.6 Format Arrangement

The specifications for Forms 5471 and 5472 are as follows:

- The substitute must follow the design of the official form as to format, arrangement, item caption, line numbers, line references, and sequence. It must be an exact textual and graphic mirror image of the official form.

- The filer must use one of the official ten character amount formats. All entries in the amount column should have a decimal point following the whole dollar amounts whether or not the vertical line that separates the dollars from the cents is present. It must follow a consistent format.
- The reference code must be printed to the left of the corresponding captioned line and also immediately preceding the data entry field even if there is no reference code preceding the data entry field on the official form. The reference code that is immediately before the data field must either be followed by a period or enclosed in parentheses. There also must be at least two blank spaces between the period or the right parenthesis and the first digit of the data field.
- The size of the page must be the same as the official form (8 1/2" x 11").
- The acceptable type is Helvetica.
- The spacing of the type must be 6 lines per inch vertically, 10 or 12 print characters per inch horizontally.
- A 1/4 inch to 1/2 inch margin must be maintained across the top, bottom, and both sides (exclusive of any pin-fed holes).
- The substitute form must be the same number of pages as the official one.
- The preprinted brackets in the money fields should be retained.
- The filer must completely fill in all the specified numbers or referenced lines as they appear on the official form (not just totals) before attaching any supporting statement.
- Supporting statements are never to be used until the required official form they support are completely filled-in. A blank or incomplete form that refers to a supporting statement, in lieu of completing a tax return, is unacceptable.
- Descriptions for captions, lines, etc., appearing in the substitute forms may be limited to one print line by using abbreviations and contractions, and by omitting articles, prepositions, etc. However, sufficient key words must be retained to permit ready identification of the caption, line, or item.
- Text prescribed for the official form, which is solely instructional (*e.g.*, "Attach this schedule to Form 1120", "See instructions", etc.) may be omitted from the form.

7.5.7 Filing Instructions

Instructions for filing substitute forms are the same as for filing official forms.

Chapter 8 Alternative Methods of Filing

Section 8.1—Forms for Electronically Filed Returns

8.1.1 Electronic Filing Program

Electronic filing is a method by which qualified filers transmit tax return information directly to an IRS Service Center over telephone lines in the format of the official Internal Revenue Service forms. The Service accepts both refund and balance due individual tax returns that are filed electronically.

8.1.2 Applying for the Electronic Filing Program

Anyone wishing to participate in the IRS *e-file* program for individual income tax returns must submit a Form 8633, Application To Participate in the IRS *e-file* Program.

Note: *For business returns, prospective participants must submit a Form 9041, Application For Electronic/Magnetic Media Filing of Business and Employee Benefit Plan Returns.*

8.1.3 Mailing Instructions

IF an application filed is...	THEN mail it to...
Form 8633 for individual income taxes (regular mail)	Internal Revenue Service Andover Submission Processing Center Attn: EFU Acceptance - Testing Stop 983 P.O. Box 4099 Woburn, MA 01888-4099

IF an application filed is...	THEN mail it to...
Form 8633 for individual income taxes (overnight mail)	Internal Revenue Service Andover Submission Processing Center Attn: EFU Acceptance - Testing Stop 983 310 Lowell Street Andover, MA 05501-0001
Form 9041 for Forms 940, 941, and 1065	Internal Revenue Service Austin Submission Processing Center Attn: EFU, Stop 6380 P.O. Box 1231 Austin, TX 78767
Form 9041 for Forms 1041	Internal Revenue Service Philadelphia Submission Processing Center Attn: DP 2720 11601 Roosevelt Blvd. Philadelphia, PA 19154

8.1.4 Obtaining the Taxpayer Signature

The taxpayer signature does not appear on the electronically transmitted tax return and is obtained by the qualified electronic filer on Form 8453, U. S. Individual Income Tax Declaration for an IRS *e-file* Return, for Forms 1040, 1040A, and 1040EZ. Form 8453, which serves as a transmittal for the associated non-electronic (paper) documents, such as Forms W-2, W-2G, and 1099-R, is a one-page form and can only be approved through the Substitute Forms Program in that format. Forms 8453-OL and 8453-NR serve the same purpose for taxpayers filing through online services and Form 1040-NR filers, respectively. For specific information about electronic filing, refer to Publication 1345, Handbook for Electronic Filers of Individual Income Tax Returns.

Note: *For business returns, the electronic/magnetic media participants must use the official Form 8453-E, F, or P, or an approved substitute that duplicates the official form in language, format, content, color, and size.*

8.1.5 Guidelines for Preparing Substitute Forms in the Electronic Filing Program

A participant in the electronic filing program, who wants to develop a substitute form should follow the guidelines throughout this publication and send a sample form for approval to the Substitute Forms Unit at the address in Chapter 2. If you do not prepare Substitute Form 8453 using a font in which all IRS wording fits on a single page, the form will not be accepted. This applies primarily to dot-matrix printers, although forms prepared similarly on laser and ink-jet printers will also be rejected.

Note: *Use of unapproved forms could result in suspension of the participant from the electronic filing program.*

Section 8.2—FTD Magnetic Tape Payments

8.2.1 Instructions for Reporting Agents

Publication 1315 provides the requirements and instructions for reporting agents who submit Federal Tax Deposit (FTD) payment information on magnetic tape. Magnetic tape submissions for FTD can be made for Forms 940, 941, 942, 943, 720, CT-1, 990-PF, 990-T, 990-C, 1042, and 1120.

8.2.2 Instructions for Banks and Fiduciaries

Revenue Procedure 89-49 (Pub. 1374) provides the requirements and instructions for certain banks and fiduciaries to submit quarterly Form 1041-ES payments on magnetic tape through the system.

Section 8.3—Effect on Other Documents

8.3.1 Effect on Other Documents

2001-37 I.R.B.

This revenue procedure supersedes Revenue Procedure 2000-19, I.R.B. 2000-12, 785.

Exhibit A-1 (Preferred Format)

SCHEDULES A&B (Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Name(s) shown on Form 1040

Schedule A—Itemized Deductions

(Schedule B is on back)

▶ Attach to Form 1040. ▶ See Instructions for Schedules A and B (Form 1040).

OMB No. 1545-0074

1999

Attachment
Sequence No. **07**

Your social security number

Medical and Dental Expenses	Caution. Do not include expenses reimbursed or paid by others.			
1	Medical and dental expenses (see page A-1)	1		
2	Enter amount from Form 1040, line 34. 2	2		
3	Multiply line 2 above by 7.5% (.075)	3		
4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-	4		
Taxes You Paid	5 State and local income taxes	5		
(See page A-2.)	6 Real estate taxes (see page A-2)	6		
	7 Personal property taxes	7		
	8 Other taxes. List type and amount ▶	8		
	9 Add lines 5 through 8	9		
Interest You Paid	10 Home mortgage interest and points reported to you on Form 1098	10		
(See page A-3.)	11 Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address ▶	11		
	12 Points not reported to you on Form 1098. See page A-3 for special rules	12		
Note. Personal interest is not deductible.	13 Investment interest. Attach Form 4952 if required. (See page A-3.)	13		
	14 Add lines 10 through 13	14		
Gifts to Charity	15 Gifts by cash or check. If you made any gift of \$250 or more, see page A-4	15		
If you made a gift and got a benefit for it, see page A-4.	16 Other than by cash or check. If any gift of \$250 or more, see page A-4. You MUST attach Form 8283 if over \$500	16		
	17 Carryover from prior year	17		
	18 Add lines 15 through 17	18		
Casualty and Theft Losses	19 Casualty or theft loss(es). Attach Form 4684. (See page A-5.)	19		
Job Expenses and Most Other Miscellaneous Deductions	20 Unreimbursed employee expenses—job travel, union dues, job education, etc. You MUST attach Form 2106 or 2106-EZ if required. (See page A-5.) ▶	20		
(See page A-5 for expenses to deduct here.)	21 Tax preparation fees	21		
	22 Other expenses—investment, safe deposit box, etc. List type and amount ▶	22		
	23 Add lines 20 through 22	23		
	24 Enter amount from Form 1040, line 34. 24	24		
	25 Multiply line 24 above by 2% (.02)	25		
	26 Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-	26		
Other Miscellaneous Deductions	27 Other—from list on page A-6. List type and amount ▶	27		
Total Itemized Deductions	28 Is Form 1040, line 34, over \$126,600 (over \$63,300 if married filing separately)? <input type="checkbox"/> No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter this amount on Form 1040, line 36. <input type="checkbox"/> Yes. Your deduction may be limited. See page A-6 for the amount to enter.	28		

For Paperwork Reduction Act Notice, see Form 1040 instructions.

Cat. No. 11330X

Schedule A (Form 1040) 1999

Exhibit A-2 (Acceptable Format)

SCHEDULES A&B (Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Schedule A—Itemized Deductions

(Schedule B is on back)

► Attach to Form 1040. ► See Instructions for Schedules A and B (Form 1040).

OMB No. 1545-0074

1999

Attachment
Sequence No. **07**

Name(s) shown on Form 1040

Your social security number

Medical and Dental Expenses	Caution. Do not include expenses reimbursed or paid by others.		
1	Medical and dental expenses (see page A-1)	1	
2	Enter amount from Form 1040, line 34. 2	2	
3	Multiply line 2 above by 7.5% (.075)	3	
4	Subtract line 3 from line 1. If line 3 is more than line 1, enter -0-	4	
Taxes You Paid	5 State and local income taxes	5	
(See page A-2.)	6 Real estate taxes (see page A-2)	6	
	7 Personal property taxes	7	
	8 Other taxes. List type and amount ►	8	
	9 Add lines 5 through 8	9	
Interest You Paid	10 Home mortgage interest and points reported to you on Form 1098	10	
(See page A-3.)	11 Home mortgage interest not reported to you on Form 1098. If paid to the person from whom you bought the home, see page A-3 and show that person's name, identifying no., and address ►	11	
	12 Points not reported to you on Form 1098. See page A-3 for special rules	12	
Note. Personal interest is not deductible.	13 Investment interest. Attach Form 4952 if required. (See page A-3.)	13	
	14 Add lines 10 through 13	14	
Gifts to Charity	15 Gifts by cash or check. If you made any gift of \$250 or more, see page A-4	15	
If you made a gift and got a benefit for it, see page A-4.	16 Other than by cash or check. If any gift of \$250 or more, see page A-4. You MUST attach Form 8283 if over \$500	16	
	17 Carryover from prior year	17	
	18 Add lines 15 through 17	18	
Casualty and Theft Losses	19 Casualty or theft loss(es). Attach Form 4684. (See page A-5.)	19	
Job Expenses and Most Other Miscellaneous Deductions	20 Unreimbursed employee expenses—job travel, union dues, job education, etc. You MUST attach Form 2106 or 2106-EZ if required. (See page A-5.) ►	20	
(See page A-5 for expenses to deduct here.)	21 Tax preparation fees	21	
	22 Other expenses—investment, safe deposit box, etc. List type and amount ►	22	
	23 Add lines 20 through 22	23	
	24 Enter amount from Form 1040, line 34. 24	24	
	25 Multiply line 24 above by 2% (.02)	25	
	26 Subtract line 25 from line 23. If line 25 is more than line 23, enter -0-	26	
Other Miscellaneous Deductions	27 Other—from list on page A-6. List type and amount ►	27	
Total Itemized Deductions	28 Is Form 1040, line 34, over \$126,600 (over \$63,300 if married filing separately)? <input type="checkbox"/> No. Your deduction is not limited. Add the amounts in the far right column for lines 4 through 27. Also, enter this amount on Form 1040, line 36. <input type="checkbox"/> Yes. Your deduction may be limited. See page A-6 for the amount to enter.	28	

For Paperwork Reduction Act Notice, see Form 1040 instructions.

Cat. No. 11330X

Schedule A (Form 1040) 1999

Exhibit B-1 (Preferred Format)

Schedules A&B (Form 1040) 1999

OMB No. 1545-0074 Page 2

Name(s) shown on Form 1040. Do not enter name and social security number if shown on other side.

Your social security number

Schedule B—Interest and Ordinary Dividends

Attachment
Sequence No. 08

Note. If you had over \$400 in taxable interest, you must also complete Part III.

Part I Interest

(See page B-1
and the
instructions for
Form 1040,
line 8a.)

Note. If you
received a Form
1099-INT, Form
1099-OID, or
substitute
statement from
a brokerage firm,
list the firm's
name as the
payer and enter
the total interest
shown on that
form.

- 1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see page B-1 and list this interest first. Also, show that buyer's social security number and address ►

Amount

1

- 2 Add the amounts on line 1

2

- 3 Excludable interest on Series EE and I U.S. savings bonds issued after 1989 from Form 8815, line 14. You MUST attach Form 8815

3

- 4 Subtract line 3 from line 2. Enter the result here and on Form 1040, line 8a ►

4

Note. If you had over \$400 in ordinary dividends, you must also complete Part III.

Part II Ordinary Dividends

(See page B-1
and the
instructions for
Form 1040,
line 9.)

Note. If you
received a Form
1099-DIV or
substitute
statement from
a brokerage firm,
list the firm's
name as the
payer and enter
the ordinary
dividends shown
on that form.

- 5 List name of payer. Include only ordinary dividends. If you received any capital gain distributions, see the instructions for Form 1040, line 13 ►

Amount

5

- 6 Add the amounts on line 5. Enter the total here and on Form 1040, line 9 ►

6

Part III Foreign Accounts and Trusts

(See
page B-2.)

You must complete this part if you (a) had over \$400 of interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

- 7a At any time during 1999, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See page B-2 for exceptions and filing requirements for Form TD F 90-22.1

- b If "Yes," enter the name of the foreign country ►

- 8 During 1999, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See page B-2

Yes No

☐ ☐

☐ ☐

☐ ☐

For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule B (Form 1040) 1999



Exhibit B-2 (Acceptable Format)

Schedules A&B (Form 1040) 1999

OMB No. 1545-0074 Page 2

Name(s) shown on Form 1040. Do not enter name and social security number if shown on other side.

Your social security number

Schedule B—Interest and Ordinary Dividends

Attachment
Sequence No. 08

Note. If you had over \$400 in taxable interest, you must also complete Part III.

Part I Interest

(See page B-1
and the
instructions for
Form 1040,
line 8a.)

Note. If you
received a Form
1099-INT, Form
1099-OID, or
substitute
statement from
a brokerage firm,
list the firm's
name as the
payer and enter
the total interest
shown on that
form.

- 1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see page B-1 and list this interest first. Also, show that buyer's social security number and address ►

Amount

1

- 2 Add the amounts on line 1
- 3 Excludable interest on series EE and I U.S. savings bonds issued after 1989 from Form 8815, line 14. You MUST attach Form 8815
- 4 Subtract line 3 from line 2. Enter the result here and on Form 1040, line 8a ►

2

3

4

Note. If you had over \$400 in ordinary dividends, you must also complete Part III.

Part II Ordinary Dividends

(See page B-1
and the
instructions for
Form 1040,
line 9.)

Note. If you
received a Form
1099-DIV or
substitute
statement from
a brokerage firm,
list the firm's
name as the
payer and enter
the ordinary
dividends shown
on that form.

- 5 List name of payer. Include only ordinary dividends. If you received any capital gain distributions, see the instructions for Form 1040, line 13 ►

Amount

5

- 6 Add the amounts on line 5. Enter the total here and on Form 1040, line 9 . ►

6

Part III Foreign Accounts and Trusts

(See
page B-2.)

You must complete this part if you (a) had over \$400 of interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.

Yes No

- 7a At any time during 1999, did you have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? See page B-2 for exceptions and filing requirements for Form TD F 90-22.1

- b If "Yes," enter the name of the foreign country ►

- 8 During 1999, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See page B-2

For Paperwork Reduction Act Notice, see Form 1040 instructions.

Schedule B (Form 1040) 1999



SSN _____

MEDICAL AND DENTAL EXPENSES**

- 1 Medical and dental expenses.....(1) _____
2 Amount from Form 1040, line 32.....(2) _____
3 Multiply line 2 by 7.5% (.075).....(3) _____
4 Subtract line 3 from line 1, not less than zero.....(4) _____

TAXES YOU PAID**

- 5 State and local income taxes.....(5) _____
6 Real estate taxes.....(6) _____
7 Personal property taxes.....(7) _____
8 Other taxes. List type and amount.
_____(8) _____
9 Add lines 5 thru 8.....(9) _____

INTEREST YOU PAID**

- 10 Home mortgage interest and points reported
to you on Form 1098.....(10) _____
11 Home mtg. int. not reported on Form 1098. If to
seller, person's name, I.D. No., and address:

_____(11) _____
12 Points not reported to you on Form 1098.....(12) _____
13 Investment interest. Att. Form 4952 if req.....(13) _____
14 Add lines 10 thru 13.....(14) _____

GIFTS TO CHARITY**

- 15 Gifts by cash or check.....(15) _____
16 Other than cash or check. If over \$500,
you MUST attach Form 8283.....(16) _____
17 Carryover from prior year.....(17) _____
18 Add lines 15 thru 17.....(18) _____

CASUALTY AND THEFT LOSSES**

- 19 Casualty or theft loss(es) from Form 4684.....(19) _____

JOB EXPENSES & MOST OTHER MISCELLANEOUS DEDUCTIONS**

- 20 Unreim employee exp. (Form 2106) _____
_____(20) _____
21 Tax preparation fees.....(21) _____
22 Other expenses:
_____(22) _____
23 Add lines 20 thru 22.....(23) _____
24 Amount from Form 1040, line 32.....(24) _____
25 Multiply line 24 by 2% (.02).....(25) _____
26 Subtract line 25 from line 23, not less than zero.....(26) _____

OTHER MISCELLANEOUS DEDUCTIONS**

- _____(27) _____

TOTAL ITEMIZED DEDUCTIONS**

- 28 If Form 1040, line 32 is more than \$114,700 (\$57,350 MFS),
see page A-5. Else add right column of lines 4-27.....(28) _____

Amount

1

(1)

Less tax-exempt interest.....To Form 1040, line 8b.....

2 Add the amounts on line 1.....(2)

3 Excludable savings bond interest from Form 8815.....(3) _____

4 Subtract line 3 from line 2.....To Form 1040, line 8a....(4)

Part II - Dividend Income

Amount

[illegible]

6 Add the amounts on line 5.....(6) _____

7 Capital gain distributions.....(7) _____

8 Nontaxable distributions.....(8) _____

9 Add lines 7 and 8.....(9) _____

10 Subtract line 9 from line 6.....To Form 1040, line 9.....(10) _____

Part III - Foreign Accounts and Foreign Trusts

If you had over \$400 of interest or dividends OR had a foreign account or were a grantor of, or a transferor to, a foreign trust, must complete:

11a At any time during 1995, did you have an interest in or a signature authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)?.....

b If Yes, name of foreign country. _____

12 Were you the grantor of, or transferor to, a foreign trust that existed during 1995, whether or not you have any beneficial interest in it? If yes, you may have to file Form 3520, 3520-A, or 926.....

D260 For Paperwork Reduction Act Notice, see Form 1040 Instructions.

EXHIBIT C

Checklist of IRS Substitute Forms Submitted on20 :

Company:

Contact:

Phone:

Fax:

Source Code:

Approved	Approved With Corrections	Must Be Resubmitted	Form Number	Comments

Authorized Name: _____

Title: _____

Reviewer's Name: _____

Telephone: _____

Date: _____

Exhibit D - List of Forms Referred to in the Revenue Procedure

Form	Title	Section
706	United States Estate (and Generation-Skipping Transfer) Tax Return	2.1
720	Quarterly Federal Excise Tax Return	2.5; 8.2
940	Employer's Annual Federal Unemployment (FUTA) Tax Return	2.3; 3.4; 6.2; 7.3; 8.2
940-EZ	Employer's Annual Federal Unemployment (FUTA) Tax Return	2.3
941	Employer's Quarterly Federal Tax Return	2.3; 3.4; 6.2; 7.3; 8.2
941-V	Form 941 Payment Voucher	2.3
943	Employer's Annual Tax Return for Agricultural Employees	2.3; 7.3; 8.2
943-V	Form 943 Payment Voucher	2.3
945	Annual Return of Withheld Federal Income Tax	2.3
945-V	Form 945 Payment Voucher	2.3
990-C	Farmers' Cooperative Association Income Tax Return	8.2
990-PF	Return of Private Foundation or Section 4947(a)(1) Non-exempt Charitable Trust Treated as a Private Foundation	8.2
990-T	Exempt Organization Business Income Tax Return (and proxy tax under section 6033 (e))	8.2
1040	U.S. Individual Income Tax Return	2.3; 2.4; 2.5; 3.1; 3.2; 3.4; 5.1; 5.2; 5.4; 6.1; 6.2; 7.3; 7.5; 8.1
1040-ES	Estimated Tax for Individuals	1.1; 2.3; 3.2; 4.1; 4.2
1040A	U.S. Individual Income Tax Return	2.1; 2.4; 3.1; 3.2; 3.4; 5.1; 5.2; 5.3; 7.3; 8.1
1040EZ	Income Tax Return for Single and Joint Filers with No Dependents	2.4; 3.1; 3.4; 7.3; 8.1
1040-NR	U.S. Nonresident Alien Income Tax Return	8.1
1040-V	Form 1040 Payment Voucher	2.3
1041	U.S. Income Tax Return for Estates and Trusts	2.5; 3.1; 7.2; 8.1
1041-ES	Estimated Income Tax for Estates and Trusts	1.1; 2.3; 3.2; 8.2
1042	Annual Withholding Tax Return for U.S. Source Income of Foreign Persons	8.2
1042-S	Foreign Person's U.S. Source Income Subject to Withholding	4.1; 7.1
1065	U.S. Partnership Return of Income	2.5; 3.1; 7.2; 7.3; 8.1
1096	Annual Summary and Transmittal of U.S. Information Returns	1.1; 1.2; 4.1; 4.2
1098	Mortgage Interest Statement	1.1; 1.2; 4.1; 4.2
1099	Series	1.1; 1.2; 4.1; 4.2
1120	U.S. Corporation Income Tax Return	2.5; 3.1; 3.4; 5.1; 6.2; 7.3; 8.2
2290	Heavy Vehicle Use Tax Return	2.3; 7.3
3468	Investment Credit	2.5
4136	Credit for Federal Tax Paid on Fuels	2.5

Form	Title	Section
4972	Tax on Lump Sum Distributions	5.4
5471	Information Return of U.S. Persons With Respect to Certain Foreign Corporations	7.5
5472	Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business	7.5
5498	Individual Retirement Arrangement Information	1.1; 1.2; 4.1; 4.2
5500	Annual Return/Report of Employee Benefit Plan	1.3; 7.4
5500-EZ	Annual Return of One-Participant (Owners and Their Spouses) Retirement Plan	1.3; 7.4
8453	U.S. Individual Income Tax Declaration for an IRS e-file Return	8.1
8453-E	Employee Benefit Plan Declaration and Signature for Electronic/Magnetic Media Filing	8.1
8453-F	U.S. Estate or Trust Income Tax Declaration and Signature for Electronic and Magnetic Media Filing	8.1
8453-NR	U.S. Nonresident Alien Income Tax Declaration for Magnetic Media Filing	8.1
8453-OL	U.S. Individual Income Tax Declaration for an e-file Online Return	8.1
8453-P	U.S. Partnership Declaration and Signature for Electronic and Magnetic Media Filing	8.1
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8814	Parents' Election To Report Child's Interest and Dividends	5.4
9041	Application for Electronic/Magnetic Media Filing of Business and Employee Benefit Plan Returns	8.1
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W-2	Wage and Tax Statement	1.1; 1.2; 4.1; 4.2; 8.1
W-2c	Corrected Wage and Tax Statement	4.1; 4.2
W-2G	Certain Gambling Winnings	1.1; 1.2; 4.1; 4.2; 8.1
W-3	Transmittal of Income and Tax Statements	1.1; 1.2; 4.1; 4.2
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APPENDIX

SECTION 1. PURPOSE

This revenue procedure provides a safe harbor method of accounting for track structure expenditures paid or incurred by certain railroads (“track maintenance allowance method”). This revenue procedure also provides procedures for a qualifying taxpayer to obtain automatic consent from the Commissioner of Internal Revenue to change to the track maintenance allowance method, including rules relating to the limitations, terms, and conditions the Commissioner deems necessary to make the change. In addition, this revenue procedure provides an optional procedure for a qualifying taxpayer whose treatment of track structure expenditures is an issue under consideration in examination, before an area appeals office, or before the United States Tax Court (“Tax Court”) to settle open taxable years using the track maintenance allowance method.

SECTION 2. BACKGROUND

.01 Under § 446(b) of the Internal Revenue Code, the Commissioner has broad authority to determine whether a method of accounting clearly reflects income. If a taxpayer’s method of accounting does not clearly reflect income, the computation of taxable income must be made under a method that, in the opinion of the Secretary, does clearly reflect income. See *Thor Power Tool Co. v. Commissioner*, 439 U.S. 522 (1979); *Commissioner v. Hansen*, 360 U.S. 446 (1959); § 1.446-1(c)(2)(ii) of the Income Tax Regulations.

.02 Section 446(e) and § 1.446-1(e) provide that, except as otherwise provided, a taxpayer must secure the consent of the Commissioner before changing a method of accounting for federal income tax purposes. Section 1.446-1(e)(3)(ii) authorizes the Commissioner to prescribe administrative procedures setting forth the limitations, terms, and conditions deemed necessary to permit a taxpayer to obtain consent to change a method of accounting.

.03 A railroad incurs track structure expenditures as a result of performing various activities to acquire, construct, maintain, repair, and improve track structure. To minimize disputes regarding the accounting for these track structure expenditures, the Internal Revenue Service will permit a railroad that complies with the requirements of this revenue procedure to account for track structure expenditures using the track maintenance allowance method described in section 5 of this revenue procedure.

SECTION 3. SCOPE

This revenue procedure applies to a taxpayer that files (or is a member of a combined reporting group that files) a Railroad Annual Report R-1 (“Form R-1”) with the Surface Transportation Board (“STB”) based on the same reporting period as the taxpayer’s taxable year and that chooses to account for track structure expenditures under the track maintenance allowance method described in section 5 of this revenue procedure.

SECTION 4. DEFINITIONS

The following definitions apply solely for purposes of this revenue procedure:

.01 *Track Structure*. “Track structure” means the combination of a taxpayer’s rail and other track material (OTM), ties, and ballast, which provides a track for rail cars and equipment powered by locomotives.

.02 *Track Structure Expenditures*. “Track structure expenditures” for a particular taxable year are the sum of the taxpayer’s expenditures for that year for current additions (including new track structure), operating items, and removal costs.

.03 *Current Additions*. “Current additions” are the amounts included in the Form R-1, on Schedule 330 (Road Property and Equipment and Improvements to Leased Property and Equipment), in Column (e) (Balance sheet additions), for Accounts 8 (Ties), 9 (Rail and OTM), and 11 (Ballast), that represent additions to the taxpayer’s track structure, that are taken into account for federal income tax purposes (*see, e.g.*, §§ 404 and 461). Thus, for example, current additions do not include the assigned value of relay materials - Schedule 330.

.04 *New Track Structure*. “New track structure” means the amount included in current additions that reflect the taxpayer’s expenditures for (1) track structure laid where none previously existed; (2) existing track structure acquired by the taxpayer; or (3) track structure previously abandoned by the taxpayer that must be rehabilitated or improved to make it suitable for the use intended by the taxpayer, that are taken into account for federal income tax purposes. New track structure includes the cost of acquiring and installing new track structure as well as the cost of any rehabilitation or improvement necessary to put newly acquired or previously abandoned track structure into operation. New track structure does not include new track amounts not reflected in current additions (*i.e.*, amounts reflected in Column (c) (Expenditures during the year for original road and equipment, and road extensions) or Column (d) (Expenditures during the year for purchase of existing lines, reorganizations, etc.)).

.05 *Assigned Value of Relay Materials - Schedule 330*. The “assigned value of relay materials - Schedule 330” means the amounts included on Schedule 330, in Column (e), on Lines 8, 9, and 11, that reflect the taxpayer’s fair market value ad-

justments (excluding rewelding and other processing costs) for track materials relaid that were previously retired for financial reporting purposes. The assigned value of relay materials does not include relay track materials purchased by the taxpayer.

.06 *Operating Items*. “Operating items” are the amounts included in the Form R-1, on Schedule 410 (Railway Operating Expenses), in Column (h) (Total), on Lines 1 (Track - Administration), 12 (Ties - Running), 13 (Ties - Switching), 14 (Rail and OTM - Running), 15 (Rail and OTM - Switching), 16 (Ballast - Running), and 17 (Ballast - Switching), that represent the taxpayer’s repairs and maintenance to its track structure, that are taken into account for federal income tax purposes. Thus, for example, operating items do not include salvage material credits - Schedule 410 or the assigned value of relay materials - Schedule 410.

.07 *Salvage Material Credits - Schedule 410*. “Salvage material credits - Schedule 410” means the amounts included on Schedule 410, in Column (h), on Lines 1, 12, 13, 14, 15, 16, and 17, that reflect credits to operating expenses for the value of salvaged materials.

.08 *Assigned Value of Relay Materials - Schedule 410*. The “assigned value of relay materials - Schedule 410” means the amounts included on Schedule 410, in Column (h), on Lines 1, 12, 13, 14, 15, 16, and 17, that reflect the taxpayer’s fair market value adjustments (excluding rewelding and other processing costs) for track materials relaid that were previously retired for financial reporting purposes. The assigned value of relay materials does not include relay track materials purchased by the taxpayer.

.09 *Removal Costs*. “Removal costs” means the amount included in Account 735 (Accumulated Depreciation, Road and Equipment Property) that represents the taxpayer’s expenditures for track removal that are taken into account for federal income tax purposes.

SECTION 5. TRACK MAINTENANCE ALLOWANCE METHOD

.01 *In General*. Under the track maintenance allowance method, the taxpayer must determine the amount of its track structure expenditures that may be currently deducted under section 5.02 (the

track maintenance allowance) and the amount required to be capitalized under section 5.03 (the capitalized amount). A taxpayer that uses the track maintenance allowance method described in this section 5 must use that method for all of its track structure expenditures.

.02 *Track Maintenance Allowance*. The track maintenance allowance for a particular taxable year under the track maintenance allowance method is determined as follows:

(1) Determine the track structure expenditures for the taxable year;

(2) Subtract from the track structure expenditures in (1) the following amounts for the taxable year:

(a) New track structure; and

(b) Operating items;

(3) Multiply the resulting amount in (2) by 40 percent; and

(4) Add to the product of (3) the operating items for the taxable year.

.03 *Capitalized Amount*. The capitalized amount for the taxable year under the track maintenance allowance method is determined as follows:

(1) Determine the track structure expenditures for the taxable year (see section 5.02(1));

(2) Subtract from the track structure expenditures in (1) the track maintenance allowance determined under section 5.02 for the taxable year to determine the capital track structure expenditures;

(3) Allocate the capital track structure expenditures determined in (2) to each track account (Rail and OTM, Ties, and Ballast), first to new track to the extent of the new track structure for each track account. The remaining capitalized amount represents replacement track and should be allocated to each track account in proportion to adjusted current additions (*i.e.*, current additions for each track account after excluding the amount allocated to new track from each account). For purposes of determining basis, the amounts allocated to each track account must be allocated further to the assets within each account using any reasonable method;

(4) For each track account, apply the taxpayer’s method of accounting for uniform capitalization, as governed by § 263A and the regulations thereunder, to the amounts capitalized to new track and to replacement track (*i.e.*, the amounts de-

terminated in (3)) to determine the additional § 263A costs (as defined in § 1.263A-1(d)(3)), whether positive or negative, and, if applicable, interest costs that must be capitalized;

(5) For each track account, add the amounts capitalized to new track and to replacement track in (3) to the additional § 263A costs and interest costs determined in (4) to determine the total capitalized amount;

(6) For each track account, treat the total capitalized amount determined in (5) as a capital expenditure and depreciate that amount in accordance with § 167 and the regulations thereunder.

.04 *Changes to Form R-1.* If the STB modifies the Form R-1 by changing the names of any account, column, or line on the Schedule 330 or 410, any references to that account, column, or line in this revenue procedure (including the definitions in section 4 of this revenue procedure) are automatically modified accordingly. Thus, for example, if the STB changes Schedule 330 to require the reporting of current additions in Column (f), rather than Column (e), any reference to Column (e) in this revenue procedure is to be treated by the taxpayer as a reference to Column (f). If the STB no longer requires Form R-1, or any schedule refer-

enced in this revenue procedure, a change in material facts upon which the original consent was based will have occurred. See section 6.05 of this revenue procedure (Effect of Consent).

.05 *Example.*

(1) *Facts.* X is a railroad that owns and maintains several thousand miles of track structure throughout the United States. X is a member of a combined reporting group that files a calendar year Form R-1 and uses a calendar year for tax purposes. For the year ending December 31, 2001, X includes the following amounts in the Form R-1, Schedule 330, Column (e) for Accounts 8, 9, and 11:

Account 8 (Ties)	\$1,500,000
Account 9 (Rail & OTM)	2,500,000
<u>Account 11 (Ballast)</u>	<u>500,000</u>
Total	\$4,500,000

Included in this amount are:

New track structure	Account 8	\$ 150,000
	Account 9	\$ 250,000
	Account 11	<u>\$ 100,000</u>
	Total	\$ 500,000
Assigned value of relay materials - Schedule 330	Account 8	\$ 30,000
	Account 9	\$ 120,000
	Account 11	<u>\$ 0</u>
	Total	\$ 150,000

All of X's current additions are taken into account for federal income tax purposes in the taxable year ended December 31, 2001, except for the assigned value of relay materials - Schedule 330. Thus, X's current additions for the taxable year ending December 31, 2001, are \$4,350,000 (\$4,500,000 - \$150,000).

For the same taxable year, the following amounts included in the Form R-1, Schedule 410, Column (h) for Lines 1, 12, 13, 14, 15, 16, and 17, constitute X's operating items:

Line 1 (Track - Administration)	\$ 315,000
Line 12 (Ties - Running)	100,000
Line 13 (Ties - Switching)	10,000
Line 14 (Rail & OTM - Running)	600,000
Line 15 (Rail & OTM - Switching)	60,000
Line 16 (Ballast - Running)	150,000
<u>Line 17 (Ballast - Switching)</u>	<u>15,000</u>
Total	\$1,250,000

Included in this amount are:

Salvage material credits - Schedule 410	(\$50,000)
Assigned value of relay materials - Schedule 410	\$100,000

All of X's operating items are taken into account for federal income tax purposes in the taxable year ended December 31, 2001, except for the salvage material credits - Schedule 410 and the assigned value of relay materials - Schedule 410. Thus, X's operating items for the taxable year ended

December 31, 2001, are \$1,200,000 (\$1,250,000 + \$50,000 - \$100,000). For the taxable year ended December 31, 2001, X included in Account 735 the following amount which is taken into account for federal income tax purposes in the taxable year ended December 31, 2001:

Removal costs \$300,000
(2) *Track maintenance allowance.* To determine the track maintenance allowance for the taxable year ended December 31, 2001, X first determines its track structure expenditures, as follows:

\$4,350,000 current additions
1,200,000 operating items
+ 300,000 removal costs
\$5,850,000 track structure expenditures

X then adjusts its track structure expenditures as follows:

\$5,850,000 track structure expenditures
(500,000) new track structure
(1,200,000) operating items
\$4,150,000 adjusted track structure expenditures

X then determines the track maintenance allowance as follows:

\$4,150,000 adjusted track structure expenditures
x .40 allowance
\$1,660,000
+1,200,000 operating items
\$2,860,000 track maintenance allowance

(3) *Capitalized amount.* To determine the capitalized amount, X first determines the capital track structure expenditures by subtracting the track maintenance allowance determined in (2) as follows:

\$5,850,000 track structure expenditures
(2,860,000) track maintenance allowance
\$2,990,000 capital track structure expenditures

X then allocates its capital track structure expenditures to each track account (Rail and OTM, Ties, and Ballast), first to new track to the extent of the \$500,000 of new track structure for each track account. The remaining \$2,490,000 of capital track structure expenditures is then allocated to replacement track for each track account in proportion to the adjusted current additions. Thus, X allocates these amounts as follows:

	Current Additions	Amount Capitalized – New Track	Adjusted Current Additions	Amount Capitalized – Replacement Track
Account 8 (Ties)	\$1,470,000	\$ 150,000	\$1,320,000	\$ 853,714
Account 9 (Rail & OTM)	2,380,000	250,000	2,130,000	1,377,585
<u>Account 11 (Ballast)</u>	<u>500,000</u>	<u>100,000</u>	<u>400,000</u>	<u>258,701</u>
Total	\$4,350,000	\$ 500,000	\$3,850,000	\$2,490,000

For each track account, X applies its method of accounting for uniform capitalization under § 263A to the amounts capitalized to new track and to replacement track to determine the additional § 263A costs (whether positive or negative) that must be capitalized. The total capitalized amount for each track account is determined by combining the amounts capitalized to new track and to replacement track

with the additional § 263A costs for each track account. X must depreciate the total capitalized amount for each track account in accordance with § 167 and the regulations thereunder.

SECTION 6. CHANGE IN METHOD OF ACCOUNTING

.01 *In General.* A change in a taxpayer's treatment of track structure ex-

penditures to the track maintenance allowance method is a change in method of accounting to which §§ 446 and 481 apply.

.02 *Issue Not Under Consideration.* If a taxpayer within the scope of this revenue procedure wants to change to the track maintenance allowance method for either its first or second taxable year ending on or after December 31, 2000, ("year

of change”) and the treatment of its track structure expenditures is not an issue under consideration in examination, before an area appeals office, or before a federal court (within the meaning of section 3.08 of Rev. Proc. 97-27 (1997-1 C.B. 680)) on August 21, 2001, the taxpayer must follow the automatic change in method of accounting provisions in Rev. Proc. 99-49 (1999-52 I.R.B. 725) (or its successor) with the following modifications:

(1) The scope limitations in section 4.02 of Rev. Proc. 99-49 do not apply. If the taxpayer is under examination, before an area appeals office, or before a federal court regarding any income tax issue other than its treatment of track structure expenditures, the taxpayer must provide a copy of the Form 3115, *Application for Change in Accounting Method*, to the examining officer, appeals officer, or government counsel (whichever is applicable) at the time that it files the copy of the Form 3115 with the national office. The Form 3115 must contain the name(s) and telephone number(s) of the examining officer, appeals officer or government counsel (whichever is applicable).

(2) A taxpayer that wants to change to the track maintenance allowance method for its first taxable year ending on or after December 31, 2000, and that, on or before October 22, 2001, files its original federal income tax return for its first taxable year ending on or after December 31, 2000, is not subject to the filing requirements in section 6.02(2)(a) of Rev. Proc. 99-49, provided that it complies with the following filing requirements. The taxpayer must complete and file a Form 3115 in duplicate. The original must be attached to the taxpayer’s amended federal income tax return for its first taxable year ending on or after December 31, 2000. This amended return must be filed no later than January 28, 2002. A copy of the Form 3115 must be filed with the national office (see section 6.02(5)(a) of Rev. Proc. 99-49 for the address) no later than when the taxpayer’s amended return is filed.

(3) To assist the Service in processing changes in method of accounting under this section of the revenue procedure, and to ensure proper handling, section 6.02(3) of Rev. Proc. 99-49 is modified to require that a Form 3115 filed

under this revenue procedure include the statement: “Automatic Change Filed Under Rev. Proc. 2001-46.” This statement should be legibly printed or typed at the top of any Form 3115 filed under this revenue procedure.

(4) If a taxpayer did not file Form R-1 for one or more of the taxable years to which the § 481(a) adjustment relates, the taxpayer must compute the § 481(a) adjustment based on information equivalent to that required by Form R-1.

.03 *Issue Under Consideration.* If a taxpayer within the scope of this revenue procedure wants to change to the track maintenance allowance method for either its first or second taxable year ending on or after December 31, 2000, (“year of change”) and the treatment of its track structure expenditures is an issue under consideration in examination, before an area appeals office, or before a federal court (within the meaning of section 3.08 of Rev. Proc. 97-27) on August 21, 2001, the taxpayer must follow the automatic change in method of accounting provisions in Rev. Proc. 99-49 with the following modifications:

(1) The scope limitations in section 4.02 of Rev. Proc. 99-49 do not apply. The taxpayer must provide a copy of the Form 3115 to the examining officer, appeals officer, or government counsel (whichever is applicable) at the time that it files the copy of the Form 3115 with the national office. The Form 3115 must contain the name(s) and telephone number(s) of the examining officer, appeals officer, or government counsel (whichever is applicable).

(2) A taxpayer that wants to change to the track maintenance allowance method for its first taxable year ending on or after December 31, 2000, and that, on or before October 22, 2001, files its original federal income tax return for its first taxable year ending on or after December 31, 2000, is not subject to the filing requirements in section 6.02(2)(a) of Rev. Proc. 99-49, provided that it complies with the following filing requirements. The taxpayer must complete and file a Form 3115 in duplicate. The original must be attached to the taxpayer’s amended federal income tax return for its first taxable year ending on or after December 31, 2000. This amended return must be filed no later than January 28,

2002. A copy of the Form 3115 must be filed with the national office (see section 6.02(5)(a) of Rev. Proc. 99-49 for the address) no later than when the taxpayer’s amended return is filed.

(3) To assist the Service in processing changes in method of accounting under this section of the revenue procedure, and to ensure proper handling, section 6.02(3) of Rev. Proc. 99-49 is modified to require that a Form 3115 filed under this revenue procedure include the statement: “Automatic Change Filed Under Rev. Proc. 2001-46.” This statement should be legibly printed or typed at the top of any Form 3115 filed under this revenue procedure.

(4) The change to the track maintenance allowance method will be made using a “cut-off method.” Under a cut-off method, only the items arising on or after the beginning of the year of change are accounted for under the track maintenance allowance method. Any items arising before the year of change continue to be accounted for under the taxpayer’s former method of accounting. Because no items are duplicated or omitted from income when a cut-off method is used to effect a change in accounting method, no § 481(a) adjustment is necessary.

(5) Section 7 of Rev. Proc. 99-49 does not apply. The taxpayer does not receive audit protection in connection with a change to the track maintenance allowance method.

.04 *Special Rule for Certain Taxpayers with Issue Under Consideration.* If a taxpayer is within the scope of this revenue procedure, and the treatment of its track structure expenditures is an issue under consideration (within the meaning of section 3.08 of Rev. Proc. 97-27) in examination, before an area appeals office, or before the Tax Court on August 21, 2001, the taxpayer may change to the track maintenance allowance method for its first or second taxable year ending on or after December 31, 2000, under section 6.03 of this revenue procedure or, alternatively, for an earlier taxable year under section 8 of this revenue procedure.

.05 *Effect of Consent.* For purposes of section 8.01 of Rev. Proc. 99-49 (Effect of Consent), a change in the material facts on which the consent was based includes a material change in how a taxpayer reports amounts on the Form R-1 or a

change in the taxpayer's obligation to file a Form R-1.

.06 Changes Not Made Under this Revenue Procedure. A taxpayer that wants to change to the track maintenance allowance method described in section 5 of this revenue procedure that does not change its method of accounting under section 6 or 8 of this revenue procedure must follow the change in method of accounting provisions in Rev. Proc. 97-27 (1997-1 C.B. 680) (or any successor).

SECTION 7. RECORD KEEPING

Section 6001 provides that every person liable for any tax imposed by the Code, or for the collection thereof, must keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. The books or records required by § 6001 must be kept at all times available for inspection by authorized internal revenue officers or employees, and must be retained so long as the contents thereof may become material in the administration of any internal revenue law. Section 1.6001-1(e). In order to satisfy the record keeping requirements of § 6001 and the regulations thereunder, a taxpayer that changes to the track maintenance allowance method should maintain records substantiating all aspects of entitlement to the deduction, including, but not limited to, the following:

.01 The Form R-1 and adequate documentation to verify the taxpayer's information included in the Form R-1. This documentation includes reports and workpapers of independent auditors with respect to agreed upon procedures, as submitted to the STB pursuant to Ex Parte 460, Certification of Railroad Annual Report R-1 by Independent Accountant;

.02 Work papers or reports that identify and extract the taxpayer's costs for new track structure, including costs to rehabilitate or improve newly acquired or previously abandoned track structure;

.03 Work papers or reports that identify and extract the taxpayer's assigned value of relay materials - Schedule 330 from the Schedule 330;

.04 Work papers or reports that identify and extract the taxpayer's assigned value of relay materials - Schedule 410 and salvage material credits - Schedule 410 from the Schedule 410; and

.05 Work papers or reports that identify the amounts included in Account 735 for the taxpayer's removal costs.

SECTION 8. OPTIONAL SETTLEMENT FOR TAXPAYERS UNDER EXAMINATION, BEFORE AN AREA APPEALS OFFICE, OR BEFORE THE TAX COURT

.01 In General. If a taxpayer is within the scope of this revenue procedure, the treatment of its track structure expenditures is an issue under consideration (within the meaning of section 3.08 of Rev. Proc. 97-27) in examination, before an area appeals office, or before the Tax Court on August 21, 2001, and the taxpayer does not change to the track maintenance allowance method under section 6.03 of this revenue procedure, the Service offers to settle the track structure expenditure issue by changing the taxpayer's method of accounting for track structure expenditures to the track maintenance allowance method in the earliest open taxable year after which there is no closed taxable year.

.02 Terms of Settlement.

(1) The Service will change the taxpayer's method of accounting for track structure expenditures to the track maintenance allowance method described in section 5 of this revenue procedure.

(2) The change to the track maintenance allowance method will be made in the earliest open taxable year after which there is no closed taxable year using a cut-off method.

(3) The taxpayer must reflect the settlement on its federal income tax returns for any affected succeeding taxable years. For example, an amount required to be capitalized during a taxable year covered by the settlement should be depreciated in that taxable year and in affected succeeding taxable years (whether or not covered by the settlement) in accordance with the taxpayer's method of accounting for depreciation.

(4) The Service will not require the taxpayer to change its method of accounting for track structure expenditures to a method other than the track maintenance allowance method for any taxable year for which a federal income tax return has been filed as of the date of the closing agreement or other appropriate settlement agreement, provided that:

(a) the taxpayer has complied with all the applicable provisions of the closing agreement or other appropriate settlement agreement;

(b) there has been no taxpayer fraud, malfeasance, or misrepresentation of a material fact;

(c) there has been no change in the material facts on which the closing agreement or other appropriate settlement agreement was based; and

(d) there has been no change in the applicable law on which the closing agreement or other appropriate settlement agreement was based.

(5) The taxpayer must execute a closing agreement under § 7121 or other appropriate settlement agreement as described in section 8.05 of this revenue procedure.

.03 Procedures for Requesting the Settlement.

(1) Initiating the request.

(a) *Taxable years under examination or in Appeals.* A taxpayer that wants to request a settlement under this section for taxable years under examination or in Appeals must submit its request in writing to the first line examination manager or appeals officer (whichever is applicable) on or before January 28, 2002.

(b) *Taxable years before the Tax Court.* A taxpayer that wants to request a settlement under this section for taxable years before the Tax Court must submit its request in writing to the Chief Counsel attorney assigned to the case on or before the earlier of January 28, 2002, or the date that is 30 days before the date the case is first set for trial, which is the date scheduled for the calendar call.

(2) *Statement of facts, law, and arguments.* The request for settlement must include the following information:

(a) the taxpayer's name, address, telephone number, and taxpayer identification number;

(b) the taxable years covered by the proposed settlement;

(c) the taxpayer's earliest open taxable year after which there is no closed taxable year;

(d) the taxpayer's current method of accounting for track structure expenditures;

(e) a statement of the material facts, including the track maintenance allowance and the capitalized amount under

the track maintenance allowance method for each taxable year under examination, before an area appeals office, or before the Tax Court, and an explanation of the computations used to determine those amounts; and

(f) a statement of whether the track maintenance allowance for each taxable year under examination, before an area appeals office, or before the Tax Court is taken into account for federal income tax purposes, for example, whether the amount was incurred under § 461 in that taxable year, and, if § 404 applies to any portion of the amount in a particular taxable year, whether that portion meets the deductibility requirements of § 404.

(3) *Perjury statement.* The request for settlement must be accompanied by the following declaration: "Under penalties of perjury, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, the request contains all the relevant facts relating to the request, and such facts are true, correct, and complete." This declaration must be signed by, or on behalf of, the taxpayer by an individual with the authority to bind the taxpayer in these matters. The declaration may not be signed by the taxpayer's representative.

.04 Procedures for Processing the Request.

(1) *Receipt of request acknowledged.* The first line examination manager, appeals officer, or Chief Counsel attorney (whichever is applicable) will acknowledge receipt of the taxpayer's request for settlement in writing within 15 business days of receipt.

(2) *Factual development.* The first line examination manager, appeals officer, or Chief Counsel attorney (whichever is applicable) will contact the taxpayer to discuss any questions the Service may have, or ask for additional information believed to be necessary to execute the settlement (for example, to verify the correctness of the taxpayer's information).

(3) *Acceptance.* The first line examination manager, appeals officer, or Chief Counsel attorney (whichever is applicable) will accept the taxpayer's request for settlement if the request complies with the applicable terms of this revenue procedure. For taxable years before the Tax Court, the settlement is subject to the approval of the Court.

(4) *Notification of acceptance.* The first line examination manager, appeals officer, or Chief Counsel attorney (whichever is applicable) will notify the taxpayer in writing when the Service agrees to the settlement requested by the taxpayer.

.05 Procedures for Implementing the Settlement.

(1) *Closing agreement or other appropriate settlement agreement required.* A taxpayer implementing a settlement is required to execute a closing agreement under § 7121 or other appropriate settlement agreement.

(2) *Contents of closing agreement or other appropriate settlement agreement.* A closing agreement must comply with the requirements of Rev. Proc. 68-16 (1968-1 C.B. 770) and must be substantially in the form set forth in the APPENDIX of this revenue procedure. Settlement agreements in cases pending before the Tax Court must conform substantially to the provisions set forth in the APPENDIX of this revenue procedure and must conform to the rules and procedures of the Tax Court.

(3) *Review and execution of closing agreement or other appropriate settlement agreement.*

(a) *Taxpayers under examination.* The first line examination manager will prepare a closing agreement. The first line examination manager should submit the closing agreement to the Ground Transportation Technical Advisor and his assigned counsel for review prior to submitting the closing agreement to the taxpayer for execution. Failure to submit the closing agreement to the Technical Advisor or his assigned counsel for review will not invalidate the closing agreement. After the closing agreement has been executed by the taxpayer, it will be executed on behalf of the Service by the Director, Field Operations (LMSB) MCT, New Jersey.

(b) *Taxpayers before an area appeals office.* The appeals officer or appeals team case leader will prepare a closing agreement. After the closing agreement has been executed by the taxpayer, it will be executed on behalf of the Service by an authorized official from Appeals.

(c) *Taxpayers before the Tax Court.* For docketed tax years before the

Tax Court, the taxpayer and the Chief Counsel attorney must prepare an appropriate settlement document, settlement stipulation, or stipulated decision document, pursuant to the rules and procedures of the court. Such settlement document, settlement stipulation, or stipulated decision document is subject to the approval of the court.

(4) Amended returns.

(a) *In general.* In cases pending before examination or appeals, the Service will make the adjustments necessary to reflect the settlement to the taxpayer's returns for the taxable years under examination or before an area appeals office. In cases pending before the Tax Court, the settlement agreement will include adjustments necessary to reflect the settlement with respect to the year(s) before the court. The taxpayer is required to file amended returns to reflect the settlement for any other affected taxable years for which a federal income tax return has been filed as of the date of the closing agreement or other appropriate settlement agreement. The amended returns must include the adjustments to taxable income necessary to reflect the new method and any collateral adjustments to taxable income or tax liability resulting from the change. A taxpayer eligible to file a "qualified amended return" under Rev. Proc. 94-69 (1994-2 C.B. 804) may satisfy the requirements of this section by filing a qualified amended return in accordance with that revenue procedure.

(b) *Time and manner.* The taxpayer must file any required amended returns on or before the date it executes the closing agreement or other appropriate settlement agreement. The taxpayer must provide a copy of the amended returns to the first line examination manager, appeals officer, or Chief Counsel attorney (whichever is applicable) at the time it files the amended returns.

.07 Effect on Other Offices of the Service. If a taxpayer is before an area appeals office or the Tax Court regarding the treatment of its track structure expenditures and does not settle this issue under the provisions of this section 8, an appropriate representative from an area appeals office or Chief Counsel office may settle a particular taxpayer's case involving this issue on a more favorable or less favorable basis than provided in this revenue

procedure. For example, an appeals officer may settle a case based on the hazards of litigation.

SECTION 9. EFFECTIVE DATE

This revenue procedure is effective for taxable years ending on or after December 31, 2000.

SECTION 10. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 99-49 is modified and amplified to include this accounting method change in the APPENDIX.

DRAFTING INFORMATION

The principal author of this revenue procedure is Kimberly L. Koch of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this revenue procedure, contact Ms. Koch at (202) 622-5020 (not a toll-free call).

APPENDIX

Department of the Treasury Internal Revenue Service

Closing Agreement on Final Determination Covering Specific Matters

Under § 7121 of the Internal Revenue Code of 1986, [Taxpayer's name, address, telephone number, and identifying number] ("the taxpayer") and the Commissioner of Internal Revenue make the following closing agreement:

WHEREAS:

1. The taxpayer files (or is a member of a combined reporting group that files) a Form R-1 based on the same reporting period as the taxpayer's taxable year.
2. The taxpayer is an accrual basis taxpayer.
3. The issue covered in this closing agreement is the taxpayer's treatment of track structure expenditures incurred as a result of performing various activities to acquire, construct, maintain, repair, and improve track structure. The definition of

"track structure expenditures" and other terms defined in section 4 of Rev. Proc. 2001-46, apply for purposes of this closing agreement.

4. The taxable years covered by this closing agreement are [insert applicable taxable years].

5. The taxpayer currently accounts for track structure expenditures as follows: [insert taxpayer's current method of accounting for track structure expenditures].

6. The taxpayer and the Internal Revenue Service ("Service") rely on the following facts and representations in making this closing agreement: [insert relevant facts, including the track maintenance allowance and the capitalized amount under the track maintenance allowance method for each taxable year under examination, before an area appeals office, or before the Tax Court, (whichever is applicable) an explanation of the computations used to determine those amounts, and a statement of whether the track maintenance allowance for each of those taxable years is taken into account for federal income tax purposes].

NOW IT IS HEREBY DETERMINED AND AGREED for federal income tax purposes:

1. That the Service is changing the taxpayer's method of accounting for track structure expenditures to the track maintenance allowance method of accounting described in section 5 of Rev. Proc. 2001-46, for the taxable year ending [insert earliest open taxable year after which there is no closed taxable year].

2. That the method change will be implemented using a cut-off method.

3. That the adjustments to taxable income necessary to reflect the new method, and any collateral adjustments to taxable income or tax liability resulting from the change for each of the taxable years covered by this agreement, are as follows: [insert appropriate adjustments].

4. (If appropriate), That the taxpayer has filed any amended returns required by section 8.05(4) of Rev. Proc. 2001-46, to reflect the settlement.

5. That the Service will not require the taxpayer to change its method of accounting for track structure expenditures to a method other than the track maintenance allowance method for any taxable year for which a federal income tax return has been filed as of the date of this closing agreement, provided that: (a) the taxpayer has complied with all the applicable provisions of the closing agreement; (b) there has been no taxpayer fraud, malfeasance, or misrepresentation of a material fact; (c) there has been no change in the material facts on which the closing agreement was based; and (d) there has been no change in the applicable law on which the closing agreement was based.

6. That the Service is not precluded from challenging the computation of the track maintenance allowance for any taxable year covered by this closing agreement on a basis unrelated to the track maintenance allowance method (for example, that all or a portion of the amount is not incurred under § 461 or that the taxpayer has not properly applied the uniform capitalization rules of § 263A and the regulations thereunder).

7. That the taxpayer accepts this settlement and agrees to the applicable terms of Rev. Proc. 2001-46.

This agreement is final and conclusive except:

- (1) The matter it relates to may be reopened in the event of fraud, malfeasance, or misrepresentation of a material fact;
- (2) It is subject to the Internal Revenue Code sections that expressly provide that effect be given to their provisions (including any stated exception for § 7122) notwithstanding any law or rule of law; and
- (3) If it relates to a tax period ending after the date of this agreement, it is subject to any law enacted after the agreement date, that applies to the tax period.

By signing, the parties certify that they have read and agreed to the terms of this document.

Taxpayer (other than individual):

By: _____

Date: _____

Title: _____

Commissioner of Internal Revenue:

By: _____

Date: _____

Title: _____

Instructions

[This agreement must be signed and filed in triplicate. (All copies must have original signatures.) The original and copies of the agreement must be identical. The name of the taxpayer must be stated accurately. The agreement may relate to one or more years.

If an attorney or agent signs the agreement for the taxpayer, the power of attorney (or a copy) authorizing that person to sign must be attached to the agreement.

If the taxpayer is a corporation, the agreement must be dated and signed with the name of the corporation, the signature and title of an authorized officer or officers, or the signature of an authorized attorney or agent. It is not necessary that a copy of an enabling corporate resolution be attached.

Use additional pages if necessary and identify them as part of this agreement.

Please see Rev. Proc. 68-16 (1968-1 C.B. 770) for a detailed description of practices and procedures applicable to most closing agreements.]

I have examined the specific matters involved and recommend the acceptance of the proposed agreement

(Receiving Officer) _____

(Date) _____

(Title) _____

I have examined the specific matters involved and recommend the acceptance of the proposed agreement

(Receiving Officer) _____

(Date) _____

(Title) _____

Part IV. Items of General Interest

Notice of Proposed Rulemaking

Qualified Subchapter S Trust Election for Testamentary Trusts

REG-106431-01

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to a qualified subchapter S trust election for testamentary trusts under section 1361 of the Internal Revenue Code. The Small Business Job Protection Act of 1996 and the Taxpayer Relief Act of 1997 made changes to the applicable law. These proposed regulations affect S corporations and their shareholders.

DATES: Written or electronic comments and requests for a public hearing must be received by November 23, 2001.

ADDRESSES: Send submissions to: CC:IT&A:RU (REG-106431-01), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:IT&A:RU (REG-106431-01), Courier's desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at <http://www.irs.gov/taxregs/regsglist.html>.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Deane M. Burke (202) 622-3070; concerning submissions of comments, Sonya Cruse (202) 622-7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document proposes to amend section 1361 of the Income Tax Regulations

(26 CFR part 1) regarding a qualified subchapter S trust (QSST) election for testamentary trusts.

Section 1361(a) defines an S corporation as a small business corporation for which an election under section 1362(a) is in effect for the year. Section 1361(b) provides, in part, that a small business corporation is a domestic corporation which is not an ineligible corporation and which does not have as a shareholder a person (other than a trust described in section 1361(c)(2)) who is not an individual. Under section 1361(c)(2), subpart E trusts and testamentary trusts are permitted S corporation shareholders. A qualified subpart E trust is a trust, all of which is treated (under subpart E of part I of subchapter J, chapter 1) as owned by an individual who is a citizen or resident of the United States. A qualified subpart E trust that continues in existence after the death of the deemed owner (former qualified subpart E trust) is a permitted shareholder, but only for the 2-year period beginning on the day of the deemed owner's death. A testamentary trust is a trust to which S corporation stock is transferred pursuant to the terms of a will, but only for the 2-year period beginning on the day the stock is transferred to it.

Section 1303 of the Small Business Job Protection Act of 1996, Public Law 104-188 (110 Stat. 1779) (August 20, 1996) (1996 Act) amended section 1361 for taxable years beginning after December 31, 1996. Prior to the 1996 Act, a former qualified subpart E trust was a permitted shareholder for a 60-day period beginning on the day of the deemed owner's death. However, if the entire corpus of the trust was includible in the gross estate of the deemed owner, the trust was a permitted shareholder for a 2-year period beginning on the day of the deemed owner's death. Under the regulations, special rules applied if the trust consisted of community property. A testamentary trust was a permitted shareholder of an S corporation for a 60-day period beginning on the day that the S corporation stock was transferred to the trust.

After the 1996 Act, both a testamentary trust and a former qualified subpart E trust, whether or not the entire corpus is included in the deemed owner's gross estate, are permitted shareholders for a

2-year period. Because the entire corpus of a former qualified subpart E trust is not required to be included in the deemed owner's estate, it is no longer relevant whether the trust consists of community property for purposes of the trust's qualifying as a permitted shareholder for a 2-year period. However, whether a former qualified subpart E trust consists of community property is still relevant for purposes of determining the shareholders of S corporation stock held by the trust.

Explanation of Provisions

A. Incorporation of Changes from the 1996 Act

The proposed regulations incorporate changes from the 1996 Act regarding section 1361 to provide that a testamentary trust may be a permitted shareholder for a 2-year period. The proposed regulations also provide that a former qualified subpart E trust is a permitted shareholder for a 2-year period whether or not the entire corpus is included in the deemed owner's gross estate. The proposed regulations thus eliminate the special rules for determining whether trusts consisting of community property qualify for the 2-year period.

The proposed regulations also incorporate additional changes made to section 1361 by the 1996 Act. Section 1302 of the 1996 Act added a new type of trust, the electing small business trusts (ESBTs), to the types of trusts permitted to be S corporation shareholders under section 1361(c)(2). Section 1601(c) of the Taxpayer Relief Act of 1997, Public Law 105-34 (111 Stat. 1086) (August 5, 1997) made technical amendments to section 1361 affecting ESBTs and S corporation shareholders. A notice of proposed rulemaking (REG-251701-96, 2001-4 I.R.B. 396) regarding ESBTs was published in the **Federal Register** (65 FR 82963) on December 29, 2000. The proposed regulations refer to ESBTs and provide that certain former qualified subpart E trusts and testamentary trusts can continue as permitted shareholders after the end of the 2-year period by becoming ESBTs.

Section 1316 of the 1996 Act allowed certain exempt organizations to be S cor-

poration shareholders for taxable years beginning after December 31, 1997, and section 1301 increased the number of permissible S corporation shareholders from 35 to 75. The proposed amendments incorporate these additional changes.

B. QSST Election for Testamentary Trusts

Section 1.1361-1(j)(6)(iii)(C) of the Income Tax Regulations provides guidance regarding when a QSST election is made for a former qualified subpart E trust that also satisfies the requirements of a QSST. Under the provision, a QSST election may be made for a former qualified subpart E trust at any time, but no later than the end of the 16-day-and-2-month period beginning on the date on which the estate of the deemed owner ceases to be treated as a shareholder (as late as the end of the 2-year period). Thus, a former qualified subpart E trust can continue as a permitted shareholder after the end of the 2-year period by electing to be a QSST.

Section 1.1361-1(h)(3)(ii)(B) provides that if a testamentary trust continues to own S corporation stock after the expiration of the 60-day period (now 2-year period), the corporation's S election will terminate unless the trust otherwise qualifies as a permitted shareholder. The trust otherwise qualifies as a permitted shareholder if it satisfies the requirements of a QSST under section 1361(d)(3) and the trust income beneficiary makes a timely QSST election under section 1361(d)(2). The regulations, promulgated before 1996, do not address when a QSST election may be made for a testamentary trust during its 2-year period as a permitted shareholder. The IRS and the Treasury Department believe that the regulations should provide guidance similar to that for former qualified subpart E trusts clarifying when an income beneficiary of a testamentary trust may make a QSST election.

Accordingly, the proposed regulations clarify that a current income beneficiary of a testamentary trust that satisfies the QSST requirements may make a QSST election at any time during the 2-year period that the trust is a permitted shareholder or the 16-day-and-2-month period beginning on the date after the 2-year period ends. Under this provision, a testamentary trust continues as a permitted

shareholder after the end of the 2-year period by becoming an electing QSST. Once the trust becomes an electing QSST, the beneficiary is treated as the shareholder of the S corporation as of the effective date of the QSST election.

Proposed Effective Date

The regulations are proposed to apply on and after the date that final regulations are published in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. It also has been determined that section 533(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Request for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is Deane M. Burke, Office of the Associate Chief Counsel (Pass-throughs & Special Industries). However,

other personnel from the IRS and the Treasury Department participated in their development.

* * * * *

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.1361-1 is amended as follows:

1. Revising paragraphs (b)(1)(ii), (f), (h)(1)(ii), (h)(1)(iv), (h)(3)(i)(B), and (h)(3)(i)(D). The undesignated paragraph following (h)(3)(i)(B) is removed.

2. Revising the second sentence of paragraph (h)(3)(ii)(A).

3. Revising paragraphs (h)(3)(ii)(B) and (j)(6)(iii)(C).

4. Redesignating paragraph (j)(6)(iii)(D) as paragraph (j)(6)(iii)(E).

5. Adding new paragraph (j)(6)(iii)(D).

6. Revising paragraph (j)(7)(ii).

7. Revising the fourth sentence of paragraph (k)(1) *Example 2*(ii).

8. Revising paragraph (k)(1) *Examples 3 and 4*(iii).

9. Adding a sentence to the end of paragraph (k)(2)(i).

The revisions and additions read as follows:

§1.1361-1 S corporation defined.

* * * * *

(b)* * *(1)* * *

(ii) As a shareholder, a person (other than an estate, a trust described in section 1361(c)(2), or, for taxable years beginning after December 31, 1997, an organization described in section 1361(c)(6)) who is not an individual;

* * * * *

(f) *Shareholder must be an individual or estate.* Except as otherwise provided in paragraph (e)(1) of this section (relating to nominees), paragraph (h) of this section (relating to certain trusts), and, for taxable years beginning after December 31, 1997, section 1361(c)(6) (relating to certain exempt organizations), a corporation in which any shareholder is a corporation, partnership, or trust does not qualify as a small business corporation.

* * * * *

(h)* * *(1)* * *

(ii) *Subpart E trust ceasing to be a qualified subpart E trust after the death of deemed owner.* A trust which was a qualified subpart E trust immediately before the death of the deemed owner and which continues in existence after the death of the deemed owner, but only for the 2-year period beginning on the day of the deemed owner's death. A trust is considered to continue in existence if the trust continues to hold the stock of the S corporation during the period of administration of the decedent's estate or if, after the period of administration, the trust continues to hold the stock pursuant to the terms of the will or the trust agreement. See §1.641(b)-3 for rules concerning the termination of estates and trusts for federal income tax purposes.

* * * * *

(iv) *Testamentary trusts.* A trust (other than a qualified subpart E trust, an electing QSST, or an electing small business trust (ESBT)) to which S corporation stock is transferred pursuant to the terms of a will, but only for the 2-year period beginning on the day the stock is transferred to the trust.

* * * * *

(3)* * *

(i)* * *

(B) If stock is held by a trust defined in paragraph (h)(1)(ii) of this section, the estate of the deemed owner is generally treated as the shareholder as of the day of the deemed owner's death. However, if stock is held by such a trust in a community property state, the decedent's estate is the shareholder only of the portion of the trust included in the decedent's gross estate (and the surviving spouse continues to be the shareholder of the portion of the trust owned by that spouse under the applicable state's community property law). The estate ordinarily will cease to be treated as the shareholder upon the earlier of the transfer of that stock by the trust or the expiration of the 2-year period beginning on the day of the deemed owner's death. If the trust qualifies and becomes an electing QSST, the beneficiary and not the estate is treated as the shareholder as of the effective date of the QSST election, and the rules provided in paragraph (j)(7) of this section apply. If the trust qualifies and becomes an ESBT, the shareholders

are determined under provisions of REG-251701-96 in 2001-4 I.R.B. 396 (see §601.601(d)(2) of this chapter) as of the effective date of the ESBT election.

* * * * *

(D) If stock is transferred to a testamentary trust described in paragraph (h)(1)(iv) of this section (other than a qualified subpart E trust, an electing QSST, or an ESBT), the estate of the testator is treated as the shareholder until the earlier of the transfer of that stock by the trust or the expiration of the 2-year period beginning on the day that the stock is transferred to the trust. If the trust qualifies and becomes an electing QSST, the beneficiary and not the estate is treated as the shareholder as of the effective date of the QSST election, and the rules provided in paragraph (j)(7) of this section apply. If the trust qualifies and becomes an ESBT, the shareholders are determined under provisions of REG-251701-96 in 2001-4 I.R.B. 396 (see §601.601(d)(2) of this chapter) as of the effective date of the ESBT election.

* * * * *

(ii)* * *

(A)* * * If the trust continues to own the stock after the expiration of the 2-year period, the corporation's S election will terminate unless the trust is otherwise a permitted shareholder.* * *

(B) If stock is transferred to a testamentary trust described in paragraph (h)(1)(iv) of this section (other than a qualified subpart E trust, an electing QSST, or an ESBT), the trust is treated as the shareholder. If the trust continues to own the stock after the expiration of the 2-year period, the corporation's S election will terminate unless the trust otherwise qualifies as a permitted shareholder. If the trust qualifies as a QSST described in section 1361(d) and the income beneficiary of the trust makes a timely QSST election, the beneficiary and not the trust is treated as the shareholder from the effective date of the QSST election.

* * * * *

(j)* * *

(6)* * *

(iii)* * *

(C) If a trust ceases to be a qualified subpart E trust but also satisfies the requirements of a QSST, the QSST election must be filed within the 16-day-and-2-month period beginning on the date on

which the trust ceases to be a qualified subpart E trust. If the estate of the deemed owner of the trust is treated as the shareholder under paragraph (h)(3)(i) of this section, the QSST election may be filed at any time, but no later than the end of the 16-day-and-2-month period beginning on the date on which the estate of the deemed owner ceases to be treated as a shareholder.

(D) If a testamentary trust is a permitted shareholder under paragraph (h)(1)(iv) of this section and also satisfies the requirements of a QSST, the QSST election may be filed at any time, but no later than the end of the 16-day-and-2-month period beginning on the date after the end of the 2-year period.

* * * * *

(7)* * *

(ii) If, upon the death of an income beneficiary, the trust continues in existence, continues to hold S corporation stock but no longer satisfies the QSST requirements, and is not a qualified subpart E trust, then, solely for purposes of section 1361(b)(1), as of the date of the income beneficiary's death, the estate of that income beneficiary is treated as the shareholder of the S corporation with respect to which the income beneficiary made the QSST election. The estate ordinarily will cease to be treated as the shareholder for purposes of section 1361(b)(1) upon the earlier of the transfer of that stock by the trust or the expiration of the 2-year period beginning on the day of the income beneficiary's death. During the period that the estate is treated as the shareholder for purposes of section 1361(b)(1), the trust is treated as the shareholder for purposes of sections 1366, 1367, and 1368. If, after the 2-year period, the trust continues to hold S corporation stock, the corporation's S election terminates. If the termination is inadvertent, the corporation may request relief under section 1362(f).

* * * * *

(k)(1)* * *

*Example 2.** * *

(ii)* * * A's estate will cease to be treated as the shareholder for purposes of section 1361(b)(1) upon the earlier of the transfer of the Corporation M stock by the trust (other than to A's estate), the expiration of the 2-year period beginning on the day of A's death, or the effective date of a QSST election if the trust qualifies as a QSST.* * *

* * * * *

Example 3. 2-year rule under section 1361(c)(2)(A)(ii) and (iii). F owns stock of Corpo-

ration P, an S corporation. In addition, F is the deemed owner of a qualified subpart E trust that holds stock in Corporation O, an S corporation. F dies on July 1, 2001. The trust continues in existence after F's death but is no longer a qualified subpart E trust. On August 1, 2001, F's shares of stock in Corporation P are transferred to the trust pursuant to the terms of F's will. Because the stock of Corporation P was not held by the trust when F died, section 1361(c)(2)(A)(ii) does not apply with respect to that stock. Under section 1361(c)(2)(A)(iii), the last day on which F's estate could be treated as a permitted shareholder of Corporation P is July 31, 2003, (that is, the last day of the 2-year period that begins on the date of the transfer from the estate to the trust). With respect to the shares of stock in Corporation O held by the trust at the time of F's death, section 1361(c)(2)(A)(ii) applies and the last day on which F's estate could be treated as a permitted shareholder of Corporation O is June 30, 2003, (that is, the last day of the 2-year period that begins on the date of F's death).

Example 4. * * *

(iii) *QSST when a person other than the current income beneficiary may receive trust corpus.* Assume the same facts as in paragraph (i) of this *Example 4*, except that H dies on November 1, 2001. Under the terms of the trust, after H's death, L is the income beneficiary of the trust and the trustee is au-

thorized to distribute trust corpus to L as well as to J. The trust ceases to be a QSST as of November 1, 2001, because corpus distributions may be made to someone other than L, the current (successive) income beneficiary. Under section 1361(c)(2)(B)(ii), H's estate (and not the trust) is considered to be the shareholder for purposes of section 1361(b)(1) for the 2-year period beginning on November 1, 2001. However, because the trust continues in existence after H's death and will receive any distributions from the corporation, the trust (and not H's estate) is treated as the shareholder for purposes of sections 1366, 1367, and 1368, during that 2-year period. After the 2-year period, the S election terminates and the trust continues as a shareholder of a C corporation. If the termination is inadvertent, Corporation Q may request relief under section 1362(f). However, the S election would not terminate if the trustee distributed all Corporation Q shares to L, J, or both before October 31, 2003 (the last day of the 2-year period), assuming that neither L nor J becomes the 76th shareholder of Corporation Q as a result of the distribution.

* * * * *

(2)* * *(i)* * * In addition, paragraphs (h)(1)(ii), (h)(1)(iv), (h)(3)(i)(B), (h)(3)(i)(D), (h)(3)(ii)(A) second sentence, (h)(3)(ii)(B), (j)(6)(iii)(C),

(j)(6)(iii)(D), (j)(7)(ii), and (k)(1) *Example 2(ii)* fourth sentence, *Example 3*, and *Example 4(iii)* of this section apply on and after the date that final regulations are published in the **Federal Register**.

* * * * *

Robert E. Wenzel,
Deputy Commissioner
of Internal Revenue.

(Filed by the Office of the Federal Register on August 23, 2001, 8:45 a.m. and published in the issue of the Federal Register for August 24, 2001, 66 F.R. 44565)

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it ap-

plies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in law or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in the new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.

Acq.—Acquiescence.

B—Individual.

BE—Beneficiary.

BK—Bank.

B.T.A.—Board of Tax Appeals.

C—Individual.

C.B.—Cumulative Bulletin.

CFR—Code of Federal Regulations.

CI—City.

COOP—Cooperative.

Ct.D.—Court Decision.

CY—County.

D—Decedent.

DC—Dummy Corporation.

DE—Donee.

Del. Order—Delegation Order.

DISC—Domestic International Sales Corporation.

DR—Donor.

E—Estate.

EE—Employee.

E.O.—Executive Order.

ER—Employer.

ERISA—Employee Retirement Income Security Act.

EX—Executor.

F—Fiduciary.

FC—Foreign Country.

FICA—Federal Insurance Contributions Act.

FISC—Foreign International Sales Company.

FPH—Foreign Personal Holding Company.

F.R.—Federal Register.

FUTA—Federal Unemployment Tax Act.

FX—Foreign Corporation.

G.C.M.—Chief Counsel's Memorandum.

GE—Grantee.

GP—General Partner.

GR—Grantor.

IC—Insurance Company.

I.R.B.—Internal Revenue Bulletin.

LE—Lessee.

LP—Limited Partner.

LR—Lessor.

M—Minor.

Nonacq.—Nonacquiescence.

O—Organization.

P—Parent Corporation.

PHC—Personal Holding Company.

PO—Possession of the U.S.

PR—Partner.

PRS—Partnership.

PTE—Prohibited Transaction Exemption.

Pub. L.—Public Law.

REIT—Real Estate Investment Trust.

Rev. Proc.—Revenue Procedure.

Rev. Rul.—Revenue Ruling.

S—Subsidiary.

S.P.R.—Statements of Procedural Rules.

Stat.—Statutes at Large.

T—Target Corporation.

T.C.—Tax Court.

T.D.—Treasury Decision.

TFE—Transferee.

TFR—Transferor.

T.I.R.—Technical Information Release.

TP—Taxpayer.

TR—Trust.

TT—Trustee.

U.S.C.—United States Code.

X—Corporation.

Y—Corporation.

Z—Corporation.

Numerical Finding List¹

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